

HOUSE BILL No. 1727

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-16-7; IC 22-3; IC 22-4; IC 22-5-6.

Synopsis: Worker's and unemployment compensation. Establishes requirements for the procedure used by a common construction wage committee to determine the scale of wages for the construction of a public work. Provides that a person may request that the department of labor review a determination if the person has substantial reason to believe that the determination does not comply with the common construction wage law. Increases worker's compensation and occupational disease benefits. Modifies the average weekly wage for an employee who sustains a compensable injury or occupational disease after a prior period of disability. Provides a credit for second injury fund assessments to an employer who pays increased benefits because of the modification. Revises the calculation of second injury fund assessments. Establishes an occupational disease second injury fund. Authorizes a 10% prejudgment interest rate for disputed worker's compensation and occupational disease claims. Establishes disabled from trade compensation. Requires an employer to give an employee 30 days notice before terminating temporary total disability benefits. Reduces by 20% rather than refusing the payment of benefits when an employer proves that an employee willfully self-inflicts injury or death, is intoxicated, commits an offense, willfully fails to obey a reasonable written or printed rule of the employer, or willfully fails to perform any statutory duty. Reduces an employee's compensation by 15% when the employee fails to comply with certain safety practices. Increases an employee's compensation by 30% when an employer fails to comply with certain safety practices. Provides for a uniform two year statute of

(Continued next page)

Effective: July 1, 2003.

Liggett

January 21, 2003, read first time and referred to Committee on Labor and Employment.



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limitations for worker's compensation and occupational disease claims. Authorizes the worker's compensation board to appoint magistrates to determine issues arising under worker's compensation, with certain exceptions. Requires a magistrate to report the magistrate's findings in an evidentiary hearing to the board member to whom the case was assigned and requires the board member to enter the final order or award. Establishes a process for transferring an employee's medical treatment to another physician. Requires the written consent of an employee and the involved medical personnel for an employer representative to be present during an employee's medical treatment or examination. Provides that a temporary employee in the construction trades who is placed by a temporary employment agency with a third party client company employer is an employee of the third party for worker's compensation purposes. Establishes the grounds to disqualify a temporary employee from receiving unemployment benefits. Makes it a Class A misdemeanor for, and provides a private right of action against, a temporary employment agency that violates or fails to provide certain protections to temporary employees in the construction trades. Eliminates the waiting period for unemployment benefits. Establishes an alternative base period. Increases maximum wage credits and the taxable wage base. Allows an employee to receive a retroactive unemployment benefit when an employer shuts down operations during a labor dispute. Reduces to 10 days an employer's response time to unemployment benefit claims. Establishes work sharing and job training benefits. Requires the department of workforce development (DWD) to deposit the first \$450,000 in skills 2016 training assessments in the special employment and training services fund. Reduces to 1.05 the fund ratio at which the unemployment insurance benefit fund receives skills 2016 training fund assessments and deposits. Appropriates from the federal Temporary Extended Unemployment Compensation Act of 2002 distribution to DWD \$160 million beginning July 1, 2003, and ending June 30, 2012, for the following purposes: (1) \$50 million for the modernization of the unemployment insurance (UI) system; (2) \$50 million for the JOBS proposal; and (3) \$60 million for 13 additional weeks of UI benefits.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1727

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) Any firm, individual,
3 partnership, limited liability company, or corporation that is awarded
4 a contract by the state, a political subdivision, or a municipal
5 corporation for the construction of a public work, and any
6 subcontractor of the construction, shall pay for each class of work
7 described in subsection (c)(1) on the project a scale of wages that may
8 not be less than the common construction wage.
9 (b) For the purpose of ascertaining what the common construction
10 wage is in the county, the awarding governmental agency, before
11 advertising for the contract, shall set up a committee of five (5) persons
12 as follows:
13 (1) One (1) person representing labor, to be named by the
14 president of the state federation of labor.
15 (2) One (1) person representing industry, to be named by the



awarding agency.

(3) A third member to be named by the governor.

(4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The owner of the project shall make the appointment under this subdivision.

(5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and, **using a procedure that meets the requirements set forth in section 1.5 of this chapter, shall** determine in writing the following:

(1) A classification of the labor to be employed in the performance of the contract for the project, divided into the following three (3) classes:

(A) Skilled labor.

(B) Semiskilled labor.

(C) Unskilled labor.

(2) The wage per hour to be paid each of the classes.

In making its determination, the committee is not required to shall consider **only** information ~~not~~ presented to the committee at the meeting **that is conducted in accordance with section 1.5 of this chapter.** IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) The rate of wages determined under subsection (c) shall not be less than the common construction wage for each of the three (3) classes of wages described in subsection (c) that are currently being paid in the county where the project is located.

(e) The provisions of this chapter shall not apply to contracts let by the Indiana department of transportation for the construction of highways, streets, and bridges. IC 8-23-9 applies to state highway projects.

(f) A determination under subsection (c) shall be made and filed with the awarding agency at least two (2) weeks prior to the date fixed for the letting, and a copy of the determination shall be furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

(g) If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) at or before the time

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required under subsection (f), the awarding agency shall make the determination. ~~and its finding shall be final.~~

(h) **If a person has substantial reason to believe that a committee's determination under subsection (c) or an awarding agency's determination under subsection (g) does not comply with this chapter, the person may request, not later than ten (10) days after the date of the determination, that the department of labor review the determination:**

- (1) to determine whether it complies with this chapter; and**
- (2) if the determination does not comply with this chapter, to establish the rate of wages for the project.**

(i) It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

~~(j)~~ (j) The provisions of this chapter do not apply to public projects in this state that would otherwise be subject to the provisions of this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant shall consent in writing that the provisions of this chapter are applicable to the project.

~~(k)~~ (k) Notwithstanding any other law, the provisions of this chapter apply to projects that will be:

- (1) owned entirely; or
- (2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

~~(l)~~ (l) Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs less than one hundred fifty thousand dollars (\$150,000).

SECTION 2. IC 5-16-7-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. In making the determination required under section 1(c) of this chapter, the committee shall use a procedure that meets the following requirements:**

(1) The committee shall consider the following as evidence of the common construction wage currently being paid in the county where the project is located:

- (A) Data presented by the department of workforce development.**
- (B) Collective bargaining agreements, if applicable.**
- (C) Other information submitted by interested parties.**

(2) The evidence considered by the committee under subdivision (1) is limited to the wages and benefits currently

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being paid by construction industry employers.

(3) All testimony presented to the committee must be made under oath or affirmation.

(4) Any part of the evidence may be submitted in written form if doing so will expedite the meeting.

(5) Documentary evidence may be received in the form of a copy or an excerpt.

(6) To the extent necessary for full disclosure of all relevant facts and issues, the committee shall afford all interested parties the opportunity to present evidence and arguments and to respond to evidence presented by other interested parties.

(7) The committee's written determination must list the evidence or sources that the committee relied upon in making the determination.

SECTION 3. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The definitions in this section apply throughout this chapter:

(1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located, as determined by the committee described in section 1(b) of this chapter, after having considered:

(A) reports from the department of workforce development; and

(B) any other information submitted by any person to the committee established under section 1(b) of this chapter.

using a procedure that meets the requirements set forth in section 1.5 of this chapter.

(2) "State of Indiana" includes any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of the state, excepting as otherwise provided in this chapter.

(3) "Municipal corporation" includes any county, city, town, or school corporation, as well as any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of any such municipal corporation. The term also includes a redevelopment commission established under IC 36-7-14-3.

(4) "Public work" includes any public building, highway, street, alley, bridge, sewer, drain, improvement, or any other work of any

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1 nature or character whatsoever which is paid for out of public
2 funds, excepting as otherwise provided in this chapter.

3 SECTION 4. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE
4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2003]: **Sec. 6. The department of labor shall adopt rules under**
6 **IC 4-22-2 to implement this chapter.**

7 SECTION 5. IC 22-3-1-1 IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is hereby created the
9 worker's compensation board of Indiana, which shall consist of seven
10 (7) members, not more than four (4) of whom shall belong to the same
11 political party, appointed by the governor, one (1) of whom ~~he~~ **the**
12 **governor** shall designate as chairman. The chairman of said board
13 shall be an attorney of recognized qualifications.

14 (b) Each member of said board shall hold office for four (4) years
15 and until ~~his~~ **the member's** successor is appointed and qualified.

16 (c) Each member of the board shall devote ~~his~~ **the member's** entire
17 time to the discharge of the duties of ~~his~~ **the member's** office and shall
18 not hold any other position of trust or profit or engage in any
19 occupation or business interfering with or inconsistent with the
20 discharge of ~~his~~ **the member's** duties as such member.

21 (d) Any member of said board may be removed by the governor at
22 any time for incompetency, neglect of duty, misconduct in office, or
23 other good cause to be stated in writing in the order of removal. In case
24 of a vacancy in the membership of the said board, the governor shall
25 appoint for the unexpired term.

26 (e) The budget agency, with the approval of the governor, shall
27 approve the salaries of the members of the board and the secretary.

28 (f) The board may appoint a secretary and may remove such
29 secretary. The secretary shall have authority to administer oaths and
30 issue subpoenas in connection with the administration of IC 22-3-2
31 through IC 22-3-7.

32 (g) **The board may appoint magistrates and may remove the**
33 **magistrates. A magistrate is entitled to determine issues arising**
34 **under IC 22-3-2 through IC 22-3-7 with the following exceptions:**

35 (1) **Claims regarding the compensability of an injury or a**
36 **disease arising out of and in the course of employment under**
37 **IC 22-3-2-2(a) or IC 22-3-7-2(a).**

38 (2) **A determination as to whether one (1) of the special**
39 **defenses contained in IC 22-3-2-8 or IC 22-3-7-21(b) operates**
40 **as a bar to the employee's claim.**

41 (3) **A determination as to whether the employee is**
42 **permanently and totally disabled for purposes of**

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IC 22-3-3-10, IC 22-3-3-13, or IC 22-3-7-16.

(4) The approval of settlement agreements under IC 22-3-2-15.

(5) Issues involving a lack of diligence, bad faith, or an independent tort under IC 22-3-4-12.1.

(h) The board, subject to the approval of the governor, may employ and fix the compensations of such clerical and other assistants as it may deem necessary.

(i) The members of the board and its assistants shall be entitled to receive from the state their actual and necessary expenses while traveling on the business of the board, but such expenses shall be approved by the chairman of the board before payment is made.

(j) All salaries and expenses of the board shall be audited and paid out of the state treasury in the manner prescribed for similar expenses in other departments or branches of the state service.

SECTION 6. IC 22-3-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The worker's compensation board may adopt rules under IC 4-22-2 to carry into effect the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

(b) The worker's compensation board is authorized:

- (1) to hear, determine, and review all claims for compensation under IC 22-3-2 through IC 22-3-7;
- (2) to require medical service for injured employees;
- (3) to approve claims for medical service or attorney's fees and the charges for nurses and hospitals;
- (4) to approve agreements;
- (5) to modify or change awards;
- (6) to make conclusions of facts and rulings of law;
- (7) to certify questions of law to the court of appeals;
- (8) to approve deductions in compensation made by employers for amounts paid in excess of the amount required by law;
- (9) to approve agreements between an employer and an employee or the employee's dependents for the cash payment of compensation in a lump sum, or, in the case of a person under eighteen (18) years of age, to order cash payments;
- (10) to establish and maintain a list of independent medical examiners and to order physical examinations;
- (11) to subpoena witnesses **and order the production and examination of books, papers, and records;**
- (12) to administer oaths;
- (13) to apply to the circuit or superior court to enforce the

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attendance and testimony of witnesses and the production and examination of books, papers, and records;

(14) to create and undertake a program designed to educate and provide assistance to employees and employers regarding the rights and remedies provided by IC 22-3-2 through IC 22-3-7, and to provide for informal resolution of disputes;

(15) to assess and collect, on the board's own initiative or on the motion of a party, the penalties provided for in IC 22-3-2 through IC 22-3-7; and

(16) to appoint board magistrates to determine issues arising under IC 22-3-2 through IC 22-3-7 subject to the limitations set forth in section 1(g) of this chapter; and

(17) to exercise all other powers and duties conferred upon the board by law.

SECTION 7. IC 22-3-1-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.1. A magistrate appointed by the worker's compensation board may do the following:**

(1) Administer an oath or affirmation that is required by law.

(2) Order that a subpoena be issued in a matter pending before the board.

(3) Conduct a prehearing conference or an evidentiary hearing.

(4) Verify a certificate for the authentication of records of a proceeding conducted by the magistrate.

SECTION 8. IC 22-3-1-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3.2. A magistrate shall report the magistrate's findings in an evidentiary hearing to the board member to whom the case was assigned. The board member shall enter the final order or award. The final order or award is subject to full board review under IC 22-3-4-7.**

SECTION 9. IC 22-3-2-2.5, AS ADDED BY P.L.235-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 2.5. (a) As used in this section, "school to work student" refers to a student participating in on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).**

(b) Except as provided in IC 22-3-7-2.5, a school to work student is entitled to the following compensation and benefits under this article:

(1) Medical benefits under IC 22-3-2 through IC 22-3-6.

(2) Permanent partial impairment compensation under IC 22-3-3-10. Permanent partial impairment compensation for a

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school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section 8(c) of this chapter**, payable upon agreement or final award to any dependents of the student under IC 22-3-3-18 through IC 22-3-3-20, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under IC 22-3-3-21.

(c) For the sole purpose of modifying an award under IC 22-3-3-27, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this article:

(1) Temporary total disability compensation under IC 22-3-3-8.

(2) Temporary partial disability compensation under IC 22-3-3-9.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of personal injury or death by accident arising out of and in the course of school to work employment.

SECTION 10. IC 22-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a) ~~No~~ Each payment of monetary compensation is allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 is reduced by twenty percent (20%) for an injury or death due to the employee's:**

(1) ~~knowingly~~ willfully self-inflicted injury;

(2) ~~his~~ intoxication;

(3) ~~his~~ commission of an offense; **~~his knowing failure to use a safety appliance;~~**

(4) ~~his knowing~~ willful failure to obey a reasonable written or printed rule of the employer which has been posted in a conspicuous position in the place of work; or

(5) ~~his knowing~~ willful failure to perform any statutory duty.

The burden of proof is on the defendant.

(b) Each payment of monetary compensation allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be reduced by fifteen percent (15%) for an injury or a death due to the employee's intentional failure to use a safety appliance



furnished by the employer.

(c) Each payment of monetary compensation allowed under IC 22-3-3-8, IC 22-3-3-9, IC 22-3-3-10, or IC 22-3-3-22 shall be increased by thirty percent (30%) for an injury or death due to the employer's intentional failure to comply with a statute or an administrative regulation regarding safety methods or installation or maintenance of safety appliances.

SECTION 11. IC 22-3-3-4, AS AMENDED BY P.L.31-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his the employee's injuries, and in addition thereto such surgical, hospital and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) After the employee's medical treatment begins, neither the employer nor the employer's insurance carrier has the right to transfer or otherwise redirect an employee's medical treatment to another physician unless:

- (1) the employee makes the transfer request;
- (2) the attending physician requests that the physician's treatment of the employee be discontinued; or
- (3) the worker's compensation board determines that there is good cause for the transfer.

(d) If the employer or the employer's insurance carrier desires

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1 to transfer or redirect the employee's medical treatment for good
 2 cause, the employer or the employer's insurance carrier shall file
 3 a transfer request with the worker's compensation board on forms
 4 prescribed by the board. A transfer may not occur until the
 5 worker's compensation board issues an order granting the transfer
 6 request.

7 (e) A representative of the employer or the employer's insurance
 8 carrier, including a case manager or a rehabilitation nurse, may
 9 not attend or be present during the employee's medical treatment
 10 unless the representative complies with the following provisions:

11 (1) The representative may not attend or be present during
 12 the employee's medical treatment unless both the employee
 13 and the treating medical personnel provide express written
 14 consent.

15 (2) Not later than the time at which the medical treatment
 16 that the representative wishes to attend begins, the
 17 representative shall inform the employee and the treating
 18 medical personnel that the written consent described in
 19 subdivision (1) is required before the representative may
 20 attend or be present during the employee's medical treatment.

21 (3) The representative may not jeopardize or threaten to
 22 jeopardize the payment of the employee's compensation under
 23 this article because the employee fails or refuses to complete
 24 the written consent described in subdivision (1).

25 (4) The representative may not cause the employee to believe
 26 that the employee's compensation under this article may be
 27 terminated or reduced because the employee fails or refuses
 28 to complete the written consent described in subdivision (1).

29 (5) The representative shall obtain the written consents
 30 required by subdivision (1) on forms prescribed by the
 31 worker's compensation board.

32 (f) After an employee's injury has been adjudicated by agreement or
 33 award on the basis of permanent partial impairment and within the
 34 statutory period for review in such case as provided in section 27 of
 35 this chapter, the employer may continue to furnish a physician or
 36 surgeon and other medical services and supplies, and the worker's
 37 compensation board may within the statutory period for review as
 38 provided in section 27 of this chapter, on a proper application of either
 39 party, require that treatment by that physician and other medical
 40 services and supplies be furnished by and on behalf of the employer as
 41 the worker's compensation board may deem necessary to limit or
 42 reduce the amount and extent of the employee's impairment. The

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1 refusal of the employee to accept such services and supplies, when
 2 provided by or on behalf of the employer, shall bar the employee from
 3 all compensation otherwise payable during the period of the refusal,
 4 and his right to prosecute any proceeding under IC 22-3-2 through
 5 IC 22-3-6 shall be suspended and abated until the employee's refusal
 6 ceases. The employee must be served with a notice setting forth the
 7 consequences of the refusal under this section. The notice must be in
 8 a form prescribed by the worker's compensation board. No
 9 compensation for permanent total impairment, permanent partial
 10 impairment, permanent disfigurement, or death shall be paid or payable
 11 for that part or portion of the impairment, disfigurement, or death
 12 which is the result of the failure of the employee to accept the
 13 treatment, services, and supplies required under this section. However,
 14 an employer may at any time permit an employee to have treatment for
 15 ~~his~~ **the employee's** injuries by spiritual means or prayer ~~in lieu~~ **instead**
 16 of the physician or surgeon and other medical services and supplies
 17 required under this section.

18 ~~(d)~~ **(g)** If, because of an emergency, or because of the employer's
 19 failure to provide an attending physician or surgical, hospital, or
 20 nursing services and supplies, or treatment by spiritual means or
 21 prayer, as required by this section, or because of any other good reason,
 22 a physician other than that provided by the employer treats the injured
 23 employee during the period of the employee's temporary total
 24 disability, or necessary and proper surgical, hospital, or nursing
 25 services and supplies are procured within the period, the reasonable
 26 cost of those services and supplies shall, subject to the approval of the
 27 worker's compensation board, be paid by the employer.

28 ~~(e)~~ **(h)** Regardless of when it occurs, where a compensable injury
 29 results in the amputation of a body part, the enucleation of an eye, or
 30 the loss of natural teeth, the employer shall furnish an appropriate
 31 artificial member, braces, and prosthodontics. The cost of repairs to or
 32 replacements for the artificial members, braces, or prosthodontics that
 33 result from a compensable injury pursuant to a prior award and are
 34 required due to either medical necessity or normal wear and tear,
 35 determined according to the employee's individual use, but not abuse,
 36 of the artificial member, braces, or prosthodontics, shall be paid from
 37 the second injury fund upon order or award of the worker's
 38 compensation board. The employee is not required to meet any other
 39 requirement for admission to the second injury fund.

40 ~~(f)~~ **(i)** If an accident arising out of and in the course of employment
 41 after June 30, 1997, results in the loss of or damage to an artificial
 42 member, a brace, an implant, eyeglasses, prosthodontics, or other

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1 medically prescribed device, the employer shall repair the artificial
 2 member, brace, implant, eyeglasses, prosthodontics, or other medically
 3 prescribed device or furnish an identical or a reasonably equivalent
 4 replacement.

5 ~~(g)~~ **(j)** This section may not be construed to prohibit an agreement
 6 between an employer and the employer's employees that has the
 7 approval of the board and that binds the parties to:

8 (1) medical care furnished by health care providers selected by
 9 agreement before or after injury; or

10 (2) the findings of a health care provider who was chosen by
 11 agreement.

12 SECTION 12. IC 22-3-3-6 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) After an injury
 14 and during the period of claimed resulting disability or impairment, the
 15 employee, if so requested by the employee's employer or ordered by the
 16 industrial board, shall submit to an examination at reasonable times
 17 and places by a duly qualified physician or surgeon designated and paid
 18 by the employer or by order of the worker's compensation board. The
 19 employee shall have the right to have present at any such examination
 20 any duly qualified physician or surgeon provided and paid for by the
 21 employee. No fact communicated to, or otherwise learned by, any
 22 physician or surgeon who may have attended or examined the
 23 employee, or who may have been present at any examination, shall be
 24 privileged, either in the hearings provided for in IC 22-3-2 through
 25 IC 22-3-6, or in any action at law brought to recover damages against
 26 any employer who is subject to the compensation provisions of
 27 IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in
 28 any way obstructs such examinations, the employee's right to
 29 compensation and ~~his~~ **the employee's** right to take or prosecute any
 30 proceedings under IC 22-3-2 through IC 22-3-6 shall be suspended
 31 until such refusal or obstruction ceases. No compensation shall at any
 32 time be payable for the period of suspension unless in the opinion of
 33 the worker's compensation board the circumstances justified the refusal
 34 or obstruction. The employee must be served with a notice setting forth
 35 the consequences of the refusal under this subsection. The notice must
 36 be in a form prescribed by the board.

37 (b) Any employer requesting an examination of any employee
 38 residing within Indiana shall pay, in advance of the time fixed for the
 39 examination, sufficient money to defray the necessary expenses of
 40 travel by the most convenient means to and from the place of
 41 examination, and the cost of meals and lodging necessary during the
 42 travel. If the method of travel is by automobile, the mileage rate to be

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1 paid by the employer shall be the rate currently being paid by the state
2 to its employees under the state travel policies and procedures
3 established by the department of administration and approved by the
4 budget agency. If such examination or travel to or from the place of
5 examination causes any loss of working time on the part of the
6 employee, the employer shall reimburse the employee for such loss of
7 wages upon the basis of the employee's average daily wage. When any
8 employee injured in Indiana moves outside Indiana, the travel expense
9 and the cost of meals and lodging necessary during the travel payable
10 under this section shall be paid from the point in Indiana nearest to the
11 employee's then residence to the place of examination. No travel and
12 other expense shall be paid for any travel and other expense required
13 outside Indiana.

14 (c) A duly qualified physician or surgeon provided and paid for by
15 the employee may be present at an examination if the employee so
16 desires. In all cases where the examination is made by a physician or
17 surgeon engaged by the employer and the injured employee has no
18 physician or surgeon present at such examination, it shall be the duty
19 of the physician or surgeon making the examination to deliver to the
20 injured employee, or the employee's representative, a statement in
21 writing of the conditions evidenced by such examination. The
22 statement shall disclose all facts that are reported by such physician or
23 surgeon to the employer. Such statement shall be furnished to the
24 employee or the employee's representative, as soon as practicable, but
25 not later than thirty (30) days before the time the case is set for hearing.
26 The statement may be submitted by either party as evidence by that
27 physician or surgeon at a hearing before the worker's compensation
28 board if the statement meets the requirements of subsection (e). If such
29 physician or surgeon fails or refuses to furnish the employee or the
30 employee's representative with such statement thirty (30) days before
31 the hearing, then the statement may not be submitted as evidence, and
32 such physician or surgeon shall not be permitted to testify before the
33 worker's compensation board as to any facts learned in such
34 examination. All of the requirements of this subsection apply to all
35 subsequent examinations requested by the employer.

36 (d) In all cases where an examination of an employee is made by a
37 physician or surgeon engaged by the employee, and the employer has
38 no physician or surgeon present at such examination, it shall be the
39 duty of the physician or surgeon making the examination to deliver to
40 the employer or the employer's representative a statement in writing of
41 the conditions evidenced by such examination. The statement shall
42 disclose all facts that are reported by such physician or surgeon to the

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1 employee. Such statement shall be furnished to the employer or the
 2 employer's representative as soon as practicable, but not later than
 3 thirty (30) days before the time the case is set for hearing. The
 4 statement may be submitted by either party as evidence by that
 5 physician or surgeon at a hearing before the worker's compensation
 6 board if the statement meets the requirements of subsection (e). If such
 7 physician or surgeon fails or refuses to furnish the employer, or the
 8 employer's representative, with such statement thirty (30) days before
 9 the hearing, then the statement may not be submitted as evidence, and
 10 such physician or surgeon shall not be permitted to testify before the
 11 industrial board as to any facts learned in such examination. All of the
 12 requirements of this subsection apply to all subsequent examinations
 13 made by a physician or surgeon engaged by the employee.

14 (e) All statements of physicians or surgeons required by this section,
 15 whether those engaged by employee or employer, shall contain the
 16 following information:

17 (1) The history of the injury, or claimed injury, as given by the
 18 patient.

19 (2) The diagnosis of the physician or surgeon concerning the
 20 patient's physical or mental condition.

21 (3) The opinion of the physician or surgeon concerning the causal
 22 relationship, if any, between the injury and the patient's physical
 23 or mental condition, including the physician's or surgeon's reasons
 24 for the opinion.

25 (4) The opinion of the physician or surgeon concerning whether
 26 the injury or claimed injury resulted in a disability or impairment
 27 and, if so, the opinion of the physician or surgeon concerning the
 28 extent of the disability or impairment and the reasons for the
 29 opinion.

30 (5) The original signature of the physician or surgeon.

31 Notwithstanding any hearsay objection, the worker's compensation
 32 board shall admit into evidence a statement that meets the requirements
 33 of this subsection unless the statement is ruled inadmissible on other
 34 grounds.

35 (f) Delivery of any statement required by this section may be made
 36 to the attorney or agent of the employer or employee and such action
 37 shall be construed as delivery to the employer or employee.

38 (g) Any party may object to a statement on the basis that the
 39 statement does not meet the requirements of subsection (e). The
 40 objecting party must give written notice to the party providing the
 41 statement and specify the basis for the objection. Notice of the
 42 objection must be given no later than twenty (20) days before the

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1 hearing. Failure to object as provided in this subsection precludes any
 2 further objection as to the adequacy of the statement under subsection
 3 (e).

4 **(h) A representative of the employer or the employer's**
 5 **insurance carrier, including a case manager or a rehabilitation**
 6 **nurse, may not attend or be present during an employee's**
 7 **examination unless the representative complies with the following**
 8 **provisions:**

9 **(1) The representative may not attend or be present during**
 10 **the employee's examination unless both the employee and the**
 11 **examining medical personnel provide express written consent.**

12 **(2) Not later than the time at which the examination that the**
 13 **representative wishes to attend begins, the representative**
 14 **shall inform the employee and the examining medical**
 15 **personnel that the written consent described in subdivision (1)**
 16 **is required before the representative may attend or be present**
 17 **during the employee's examination.**

18 **(3) The representative may not jeopardize or threaten to**
 19 **jeopardize the payment of the employee's compensation under**
 20 **this article because the employee fails or refuses to complete**
 21 **the written consent described in subdivision (1).**

22 **(4) The representative may not cause the employee to believe**
 23 **that the employee's compensation under this article may be**
 24 **terminated or reduced because the employee fails or refuses**
 25 **to complete the written consent described in subdivision (1).**

26 **(5) The representative shall obtain the written consents**
 27 **required by subdivision (1) on forms prescribed by the**
 28 **worker's compensation board.**

29 **(i) The employer upon proper application, or the worker's**
 30 **compensation board, shall have the right in any case of death to require**
 31 **an autopsy at the expense of the party requesting the same. If, after a**
 32 **hearing, the worker's compensation board orders an autopsy and such**
 33 **autopsy is refused by the surviving spouse or next of kin, then any**
 34 **claim for compensation on account of such death shall be suspended**
 35 **and abated during such refusal. The surviving spouse or dependent**
 36 **must be served with a notice setting forth the consequences of the**
 37 **refusal under this subsection. The notice must be in a form prescribed**
 38 **by the worker's compensation board. No autopsy, except one performed**
 39 **by or on the authority or order of the coroner in the discharge of the**
 40 **coroner's duties, shall be held in any case by any person, without notice**
 41 **first being given to the surviving spouse or next of kin, if they reside in**
 42 **Indiana or their whereabouts can reasonably be ascertained, of the time**

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and place thereof, and reasonable time and opportunity given such surviving spouse or next of kin to have a representative or representatives present to witness same. However, if such notice is not given, all evidence obtained by such autopsy shall be suppressed on motion duly made to the worker's compensation board.

SECTION 13. IC 22-3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) Compensation shall be allowed on account of injuries producing only temporary total disability to work or temporary partial disability to work beginning with the eighth (8th) day of such disability except for medical benefits provided in section 4 of the chapter. Compensation shall be allowed for the first seven (7) calendar days only if the disability continues for longer than twenty-one (21) days.

(b) The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed injury. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

If a determination of liability is not made within thirty (30) days



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1 from the date of injury, and the employer is subsequently
 2 determined to be liable to pay compensation, the first installment
 3 of compensation must include the accrued weekly compensation
 4 and interest at the legal rate of interest specified in IC 24-4.6-1-101
 5 computed from the date fourteen (14) days after the disability
 6 begins. An employer who fails to comply with this section is subject to
 7 a civil penalty of fifty dollars (\$50), to be assessed and collected by the
 8 board upon notice and hearing. Civil penalties collected under this
 9 section shall be deposited in the state general fund.

10 (c) Once begun, temporary total disability benefits may not be
 11 terminated by the employer unless:

- 12 (1) the employee has returned to any employment;
- 13 (2) the employee has died;
- 14 (3) the employee has refused to undergo a medical examination
- 15 under section 6 of this chapter or has refused to accept suitable
- 16 employment under section 11 of this chapter;
- 17 (4) the employee has received five hundred (500) weeks of
- 18 temporary total disability benefits or has been paid the maximum
- 19 compensation allowed under section 22 of this chapter; ~~or~~
- 20 (5) the employee is unable or unavailable to work for reasons
- 21 unrelated to the compensable injury; ~~or~~
- 22 **(6) the employee returns to work with limitations or**
- 23 **restrictions, and the employer converts temporary total**
- 24 **disability or temporary partial disability compensation into**
- 25 **disabled from trade compensation under section 33 of this**
- 26 **chapter.**

27 In all other cases the employer must notify the employee in writing **not**
 28 **later than thirty (30) days before the effective date of the**
 29 **termination** of the employer's intent to terminate the payment of
 30 temporary total disability benefits and of the availability of
 31 employment, if any, on a form approved by the board. If the employee
 32 disagrees with the proposed termination, the employee must give
 33 written notice of disagreement to the board and the employer within
 34 seven (7) days after receipt of the notice of intent to terminate benefits.
 35 If the board and employer do not receive a notice of disagreement
 36 under this section, the employee's temporary total disability benefits
 37 shall be terminated. Upon receipt of the notice of disagreement, the
 38 board shall immediately contact the parties, which may be by telephone
 39 or other means, and attempt to resolve the disagreement. If the board
 40 is unable to resolve the disagreement within ten (10) days of receipt of
 41 the notice of disagreement, the board shall immediately arrange for an
 42 evaluation of the employee by an independent medical examiner. The

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independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under IC 22-3-4-5.

(d) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(e) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted from any benefits due the employee under section 10 of this chapter and, if there are no benefits due the employee or the benefits due the employee do not equal the amount of the overpayment, the employee shall be responsible for paying any overpayment which cannot be deducted from benefits due the employee.

SECTION 14. IC 22-3-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. **(a)** With respect to injuries occurring prior to April 1, 1951, causing temporary total disability for work there shall be paid to the injured employee during such total disability for work a weekly compensation equal to fifty-five percent (55%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after April 1, 1951, and prior to July 1, 1971, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages for a period not to exceed five hundred (500) weeks. With respect to injuries occurring on and after July 1, 1971, and prior to July 1, 1974, causing temporary total disability for work there shall be paid to the injured employee during such total disability a weekly compensation equal to sixty per cent (60%) of ~~his~~ **the injured employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~ **section 22 of this chapter** a period not to exceed five hundred (500) weeks.



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1 With respect to injuries occurring on and after July 1, 1974, and before
 2 July 1, 1976, causing temporary total disability or total permanent
 3 disability for work there shall be paid to the injured employee during
 4 such total disability a weekly compensation equal to sixty-six and
 5 two-thirds percent (66 2/3%) of ~~his~~ **the injured employee's** average
 6 weekly wages up to one hundred ~~and~~ thirty-five dollars ~~(\$135.00)~~
 7 **(\$135)** average weekly wages, as defined in section 22 of this chapter,
 8 for a period not to exceed five hundred (500) weeks. With respect to
 9 injuries occurring on and after July 1, 1976, causing temporary total
 10 disability or total permanent disability for work, there shall be paid to
 11 the injured employee during the total disability a weekly compensation
 12 equal to sixty-six and two-thirds percent (66 2/3%) of ~~his~~ **the injured**
 13 **employee's** average weekly wages, as defined in ~~IC 22-3-3-22~~, **section**
 14 **22 of this chapter**, for a period not to exceed five hundred (500)
 15 weeks. **If an employee who has sustained a compensable injury**
 16 **returns to work and suffers a later period of disability due to that**
 17 **injury after June 30, 2003, the average weekly wage for that period**
 18 **of disability shall be determined based on the employee's average**
 19 **weekly wage at the time of the disability subject to the maximum**
 20 **average weekly wage in effect as of the last day worked, computed**
 21 **as set forth in section 22 of this chapter.** Compensation shall be
 22 allowed for the first seven (7) calendar days only if the disability
 23 continues for longer than twenty-one (21) days.

24 **(b) Each payment of monetary compensation allowed under**
 25 **subsection (a) is reduced or increased as provided in IC 22-3-2-8.**

26 SECTION 15. IC 22-3-3-9 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. **(a)** With respect to
 28 injuries occurring prior to April 1, 1951, causing temporary partial
 29 disability for work, compensation shall be paid to the injured employee
 30 during such disability, as prescribed in section 7 of this chapter, a
 31 weekly compensation equal to fifty-five per cent (55%) of the
 32 difference between his average weekly wages and the weekly wages at
 33 which he is actually employed after the injury, for a period not to
 34 exceed three hundred (300) weeks. With respect to injuries occurring
 35 on and after April 1, 1951, and prior to July 1, 1974, causing temporary
 36 partial disability for work, compensation shall be paid to the injured
 37 employee during such disability, as prescribed in section 7 of this
 38 chapter, a weekly compensation equal to sixty per cent (60%) of the
 39 difference between his average weekly wages and the weekly wages at
 40 which he is actually employed after the injury, for a period not to
 41 exceed three hundred (300) weeks. With respect to injuries occurring
 42 on and after July 1, 1974, causing temporary partial disability for work,



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1 compensation shall be paid to the injured employee during such
 2 disability as prescribed in section 7 of this chapter, a weekly
 3 compensation equal to sixty-six and two-thirds per cent (66 2/3%) of
 4 the difference between his average weekly wages and the weekly wages
 5 at which he is actually employed after the injury, for a period not to
 6 exceed three hundred (300) weeks. In case the partial disability begins
 7 after the period of temporary total disability, the latter period shall be
 8 included as a part of the maximum period allowed for partial disability.

9 **(b) Each payment of monetary compensation allowed under**
 10 **subsection (a) is reduced or increased as provided in IC 22-3-2-8.**

11 SECTION 16. IC 22-3-3-10, AS AMENDED BY P.L.31-2000,
 12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2003]: Sec. 10. (a) With respect to injuries in the following
 14 schedule occurring prior to April 1, 1951, the employee shall receive
 15 in addition to temporary total disability benefits not exceeding
 16 twenty-six (26) weeks on account of the injuries, a weekly
 17 compensation of fifty-five percent (55%) of the employee's average
 18 weekly wages. With respect to injuries in the following schedule
 19 occurring on and after April 1, 1951, and prior to July 1, 1971, the
 20 employee shall receive in addition to temporary total disability benefits
 21 not exceeding twenty-six (26) weeks on account of the injuries, a
 22 weekly compensation of sixty percent (60%) of the employee's average
 23 weekly wages. With respect to injuries in the following schedule
 24 occurring on and after July 1, 1971, and before July 1, 1977, the
 25 employee shall receive in addition to temporary total disability benefits
 26 not exceeding twenty-six (26) weeks on account of the injuries, a
 27 weekly compensation of sixty percent (60%) of the employee's average
 28 weekly wages not to exceed one hundred dollars (\$100) average weekly
 29 wages, for the periods stated for the injuries. With respect to injuries
 30 in the following schedule occurring on and after July 1, 1977, and
 31 before July 1, 1979, the employee shall receive, in addition to
 32 temporary total disability benefits not exceeding twenty-six (26) weeks
 33 on account of the injury, a weekly compensation of sixty percent (60%)
 34 of his average weekly wages, not to exceed one hundred twenty-five
 35 dollars (\$125) average weekly wages, for the period stated for the
 36 injury. With respect to injuries in the following schedule occurring on
 37 and after July 1, 1979, and before July 1, 1988, the employee shall
 38 receive, in addition to temporary total disability benefits not to exceed
 39 fifty-two (52) weeks on account of the injury, a weekly compensation
 40 of sixty percent (60%) of the employee's average weekly wages, not to
 41 exceed one hundred twenty-five dollars (\$125) average weekly wages,
 42 for the period stated for the injury. With respect to injuries in the

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1 following schedule occurring on and after July 1, 1988, and before July
 2 1, 1989, the employee shall receive, in addition to temporary total
 3 disability benefits not exceeding seventy-eight (78) weeks on account
 4 of the injury, a weekly compensation of sixty percent (60%) of the
 5 employee's average weekly wages, not to exceed one hundred sixty-six
 6 dollars (\$166) average weekly wages, for the period stated for the
 7 injury.

8 With respect to injuries in the following schedule occurring on and
 9 after July 1, 1989, and before July 1, 1990, the employee shall receive,
 10 in addition to temporary total disability benefits not exceeding
 11 seventy-eight (78) weeks on account of the injury, a weekly
 12 compensation of sixty percent (60%) of the employee's average weekly
 13 wages, not to exceed one hundred eighty-three dollars (\$183) average
 14 weekly wages, for the period stated for the injury.

15 With respect to injuries in the following schedule occurring on and
 16 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 17 in addition to temporary total disability benefits not exceeding
 18 seventy-eight (78) weeks on account of the injury, a weekly
 19 compensation of sixty percent (60%) of the employee's average weekly
 20 wages, not to exceed two hundred dollars (\$200) average weekly
 21 wages, for the period stated for the injury.

22 (1) Amputation: For the loss by separation of the thumb, sixty
 23 (60) weeks, of the index finger forty (40) weeks, of the second
 24 finger thirty-five (35) weeks, of the third or ring finger thirty (30)
 25 weeks, of the fourth or little finger twenty (20) weeks, of the hand
 26 by separation below the elbow joint two hundred (200) weeks, or
 27 the arm above the elbow two hundred fifty (250) weeks, of the big
 28 toe sixty (60) weeks, of the second toe thirty (30) weeks, of the
 29 third toe twenty (20) weeks, of the fourth toe fifteen (15) weeks,
 30 of the fifth or little toe ten (10) weeks, and for loss occurring
 31 before April 1, 1959, by separation of the foot below the knee
 32 joint one hundred fifty (150) weeks and of the leg above the knee
 33 joint two hundred (200) weeks; for loss occurring on and after
 34 April 1, 1959, by separation of the foot below the knee joint, one
 35 hundred seventy-five (175) weeks and of the leg above the knee
 36 joint two hundred twenty-five (225) weeks. The loss of more than
 37 one (1) phalange of a thumb or toes shall be considered as the loss
 38 of the entire thumb or toe. The loss of more than two (2)
 39 phalanges of a finger shall be considered as the loss of the entire
 40 finger. The loss of not more than one (1) phalange of a thumb or
 41 toe shall be considered as the loss of one-half (1/2) of the thumb
 42 or toe and compensation shall be paid for one-half (1/2) of the

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period for the loss of the entire thumb or toe. The loss of not more than one (1) phalange of a finger shall be considered as the loss of one-third ($1/3$) of the finger and compensation shall be paid for one-third ($1/3$) the period for the loss of the entire finger. The loss of more than one (1) phalange of the finger but not more than two (2) phalanges of the finger, shall be considered as the loss of one-half ($1/2$) of the finger and compensation shall be paid for one-half ($1/2$) of the period for the loss of the entire finger.

(2) For the loss by separation of both hands or both feet or the total sight of both eyes, or any two (2) such losses in the same accident, five hundred (500) weeks.

(3) For the permanent and complete loss of vision by enucleation or its reduction to one-tenth ($1/10$) of normal vision with glasses, one hundred seventy-five (175) weeks.

(4) For the permanent and complete loss of hearing in one (1) ear, seventy-five (75) weeks, and in both ears, two hundred (200) weeks.

(5) For the loss of one (1) testicle, fifty (50) weeks; for the loss of both testicles, one hundred fifty (150) weeks.

(b) With respect to injuries in the following schedule occurring prior to April 1, 1951, the employee shall receive in lieu of all other compensation on account of the injuries, a weekly compensation of fifty-five percent (55%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1951, and prior to April 1, 1955, the employee shall receive in lieu of all other compensation on account of the injuries a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after April 1, 1955, and prior to July 1, 1971, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages. With respect to injuries in the following schedule occurring on and after July 1, 1971, and before July 1, 1977, the employee shall receive in addition to temporary total disability benefits not exceeding twenty-six (26) weeks on account of the injuries, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed one hundred dollars (\$100) average weekly wages, for the period stated for such injuries respectively. With respect to injuries in the following schedule occurring on and after July 1, 1977, and before July 1, 1979, the employee shall receive, in addition to temporary total disability benefits not exceeding twenty-six (26)

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1 weeks on account of the injury, a weekly compensation of sixty percent
 2 (60%) of the employee's average weekly wages not to exceed one
 3 hundred twenty-five dollars (\$125) average weekly wages, for the
 4 period stated for the injury. With respect to injuries in the following
 5 schedule occurring on and after July 1, 1979, and before July 1, 1988,
 6 the employee shall receive, in addition to temporary total disability
 7 benefits not exceeding fifty-two (52) weeks on account of the injury, a
 8 weekly compensation of sixty percent (60%) of the employee's average
 9 weekly wages not to exceed one hundred twenty-five dollars (\$125)
 10 average weekly wages for the period stated for the injury. With respect
 11 to injuries in the following schedule occurring on and after July 1,
 12 1988, and before July 1, 1989, the employee shall receive, in addition
 13 to temporary total disability benefits not exceeding seventy-eight (78)
 14 weeks on account of the injury, a weekly compensation of sixty percent
 15 (60%) of the employee's average weekly wages, not to exceed one
 16 hundred sixty-six dollars (\$166) average weekly wages, for the period
 17 stated for the injury.

18 With respect to injuries in the following schedule occurring on and
 19 after July 1, 1989, and before July 1, 1990, the employee shall receive,
 20 in addition to temporary total disability benefits not exceeding
 21 seventy-eight (78) weeks on account of the injury, a weekly
 22 compensation of sixty percent (60%) of the employee's average weekly
 23 wages, not to exceed one hundred eighty-three dollars (\$183) average
 24 weekly wages, for the period stated for the injury.

25 With respect to injuries in the following schedule occurring on and
 26 after July 1, 1990, and before July 1, 1991, the employee shall receive,
 27 in addition to temporary total disability benefits not exceeding
 28 seventy-eight (78) weeks on account of the injury, a weekly
 29 compensation of sixty percent (60%) of the employee's average weekly
 30 wages, not to exceed two hundred dollars (\$200) average weekly
 31 wages, for the period stated for the injury.

32 (1) Loss of use: The total permanent loss of the use of an arm,
 33 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
 34 as the equivalent of the loss by separation of the arm, hand,
 35 thumb, finger, leg, foot, toe, or phalange, and compensation shall
 36 be paid for the same period as for the loss thereof by separation.

37 (2) Partial loss of use: For the permanent partial loss of the use of
 38 an arm, hand, thumb, finger, leg, foot, toe, or phalange,
 39 compensation shall be paid for the proportionate loss of the use of
 40 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

41 (3) For injuries resulting in total permanent disability, five
 42 hundred (500) weeks.

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(4) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), compensation shall be paid for a period proportionate to the degree of such permanent reduction without correction or glasses. However, when such permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, but correction or glasses would result in restoration of vision, then in such event compensation shall be paid for fifty percent (50%) of such total loss of vision without glasses, plus an additional amount equal to the proportionate amount of such reduction with glasses, not to exceed an additional fifty percent (50%).

(5) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid for a period proportional to the degree of such permanent reduction.

(6) In all other cases of permanent partial impairment, compensation proportionate to the degree of such permanent partial impairment, in the discretion of the worker's compensation board, not exceeding five hundred (500) weeks.

(7) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding two hundred (200) weeks, except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this section.

(c) With respect to injuries in the following schedule occurring on and after July 1, 1991, the employee shall receive in addition to temporary total disability benefits, not exceeding one hundred twenty-five (125) weeks on account of the injury, compensation in an amount determined under the following schedule to be paid weekly at a rate of sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the employee's average weekly wages during the fifty-two (52) weeks immediately preceding the week in which the injury occurred.

(1) Amputation: For the loss by separation of the thumb, twelve (12) degrees of permanent impairment; of the index finger, eight (8) degrees of permanent impairment; of the second finger, seven (7) degrees of permanent impairment; of the third or ring finger, six (6) degrees of permanent impairment; of the fourth or little finger, four (4) degrees of permanent impairment; of the hand by separation below the elbow joint, forty (40) degrees of permanent impairment; of the arm above the elbow, fifty (50) degrees of permanent impairment; of the big toe, twelve (12) degrees of

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1 permanent impairment; of the second toe, six (6) degrees of
 2 permanent impairment; of the third toe, four (4) degrees of
 3 permanent impairment; of the fourth toe, three (3) degrees of
 4 permanent impairment; of the fifth or little toe, two (2) degrees of
 5 permanent impairment; by separation of the foot below the knee
 6 joint, thirty-five (35) degrees of permanent impairment; and of the
 7 leg above the knee joint, forty-five (45) degrees of permanent
 8 impairment.

9 (2) Amputations: For the loss by separation of any of the body
 10 parts described in subdivision (1) on or after July 1, 1997, and for
 11 the loss by separation of any of the body parts described in
 12 subdivision (3), (5), or (8), on or after July 1, 1999, the dollar
 13 values per degree applying on the date of the injury as described
 14 in subsection (d) shall be multiplied by two (2). However, the
 15 doubling provision of this subdivision does not apply to a loss of
 16 use that is not a loss by separation.

17 (3) The loss of more than one (1) phalange of a thumb or toe shall
 18 be considered as the loss of the entire thumb or toe. The loss of
 19 more than two (2) phalanges of a finger shall be considered as the
 20 loss of the entire finger. The loss of not more than one (1)
 21 phalange of a thumb or toe shall be considered as the loss of
 22 one-half (1/2) of the degrees of permanent impairment for the loss
 23 of the entire thumb or toe. The loss of not more than one (1)
 24 phalange of a finger shall be considered as the loss of one-third
 25 (1/3) of the finger and compensation shall be paid for one-third
 26 (1/3) of the degrees payable for the loss of the entire finger. The
 27 loss of more than one (1) phalange of the finger but not more than
 28 two (2) phalanges of the finger shall be considered as the loss of
 29 one-half (1/2) of the finger and compensation shall be paid for
 30 one-half (1/2) of the degrees payable for the loss of the entire
 31 finger.

32 (4) For the loss by separation of both hands or both feet or the
 33 total sight of both eyes or any two (2) such losses in the same
 34 accident, one hundred (100) degrees of permanent impairment.

35 (5) For the permanent and complete loss of vision by enucleation,
 36 thirty-five (35) degrees of permanent impairment.

37 (6) For the reduction of vision to one-tenth (1/10) of normal
 38 vision with glasses, thirty-five (35) degrees of permanent
 39 impairment.

40 (7) For the permanent and complete loss of hearing in one (1) ear,
 41 fifteen (15) degrees of permanent impairment, and in both ears,
 42 forty (40) degrees of permanent impairment.

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(8) For the loss of one (1) testicle, ten (10) degrees of permanent impairment; for the loss of both testicles, thirty (30) degrees of permanent impairment.

(9) Loss of use: The total permanent loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange, and compensation shall be paid in the same amount as for the loss by separation. However, the doubling provision of subdivision (2) does not apply to a loss of use that is not a loss by separation.

(10) Partial loss of use: For the permanent partial loss of the use of an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a phalange, compensation shall be paid for the proportionate loss of the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

(11) For injuries resulting in total permanent disability, the amount payable for impairment or five hundred (500) weeks of compensation, whichever is greater.

(12) For any permanent reduction of the sight of an eye less than a total loss as specified in subsection (a)(3), the compensation shall be paid in an amount proportionate to the degree of a permanent reduction without correction or glasses. However, when a permanent reduction without correction or glasses would result in one hundred percent (100%) loss of vision, then compensation shall be paid for fifty percent (50%) of the total loss of vision without glasses, plus an additional amount equal to the proportionate amount of the reduction with glasses, not to exceed an additional fifty percent (50%).

(13) For any permanent reduction of the hearing of one (1) or both ears, less than the total loss as specified in subsection (a)(4), compensation shall be paid in an amount proportionate to the degree of a permanent reduction.

(14) In all other cases of permanent partial impairment, compensation proportionate to the degree of a permanent partial impairment, in the discretion of the worker's compensation board, not exceeding one hundred (100) degrees of permanent impairment.

(15) In all cases of permanent disfigurement which may impair the future usefulness or opportunities of the employee, compensation, in the discretion of the worker's compensation board, not exceeding forty (40) degrees of permanent impairment except that no compensation shall be payable under this subdivision where compensation is payable elsewhere in this

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section.

(d) Compensation for permanent partial impairment shall be paid according to the degree of permanent impairment for the injury determined under subsection (c) and the following:

(1) With respect to injuries occurring on and after July 1, 1991, and before July 1, 1992, for each degree of permanent impairment from one (1) to thirty-five (35), five hundred dollars (\$500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), nine hundred dollars (\$900) per degree; for each degree of permanent impairment above fifty (50), one thousand five hundred dollars (\$1,500) per degree.

(2) With respect to injuries occurring on and after July 1, 1992, and before July 1, 1993, for each degree of permanent impairment from one (1) to twenty (20), five hundred dollars (\$500) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), eight hundred dollars (\$800) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(3) With respect to injuries occurring on and after July 1, 1993, and before July 1, 1997, for each degree of permanent impairment from one (1) to ten (10), five hundred dollars (\$500) per degree; for each degree of permanent impairment from eleven (11) to twenty (20), seven hundred dollars (\$700) per degree; for each degree of permanent impairment from twenty-one (21) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(4) With respect to injuries occurring on and after July 1, 1997, and before July 1, 1998, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(5) With respect to injuries occurring on and after July 1, 1998,



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and before July 1, 1999, for each degree of permanent impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to injuries occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to injuries occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to injuries occurring on and after July 1, 2001, **and before July 1, 2003**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to injuries occurring on and after July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars (\$2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand

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seven hundred six dollars (\$2,706) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand three hundred six dollars (\$3,306) per degree; for each degree of permanent impairment above fifty (50), three thousand nine hundred six dollars (\$3,906) per degree. (10) With respect to injuries occurring on and after July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand four hundred six dollars (\$2,406) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), three thousand eighty-one dollars (\$3,081) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand seven hundred eighty-one dollars (\$3,781) per degree; for each degree of permanent impairment above fifty (50), four thousand five hundred thirty-one dollars (\$4,531) per degree.

(e) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (c) and (d) shall not exceed the following:

- (1) With respect to injuries occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).
- (2) With respect to injuries occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).
- (3) With respect to injuries occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).
- (4) With respect to injuries occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).
- (5) With respect to injuries occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).
- (6) With respect to injuries occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).
- (7) With respect to injuries occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).
- (8) With respect to injuries occurring on or after July 1, 2000, and before July 1, 2001, seven hundred sixty-two dollars (\$762).
- (9) With respect to injuries occurring on or after July 1, 2001, and before July 1, 2002, eight hundred twenty-two dollars (\$822).
- (10) With respect to injuries occurring on or after July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two dollars (\$882).
- (11) **With respect to injuries occurring on or after July 1, 2003, and before July 1, 2004, nine hundred forty-eight dollars (\$948).**



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(12) With respect to injuries occurring on or after July 1, 2004, one thousand fourteen dollars (\$1,014).

(f) With respect to injuries occurring on or after July 1, 2003, each payment of monetary compensation allowed under this section is reduced or increased as provided in IC 22-3-2-8.

SECTION 17. IC 22-3-3-13, AS AMENDED BY P.L.202-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section 4(e) of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than October 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk; stating that an assessment is necessary. After June 30, 1999, the board may conduct an assessment under this subsection not more than one (1) time annually. Every insurance carrier and other entity insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or death of their employees under this article and every employer carrying the employer's own risk, shall, within thirty (30) days of the board sending notice under this subsection, pay to the worker's compensation board for the benefit of the fund an assessed amount that may not exceed ~~two~~ **three** and one-half percent (~~2.5%~~) (**3.5%**) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding



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the due date of such payment. For the purposes of calculating the assessment under this subsection, the board may consider payments for temporary total disability, temporary partial disability, permanent total impairment, permanent partial impairment, or death of an employee. The board may not consider payments for medical benefits in calculating an assessment under this subsection. If the amount to the credit of the second injury fund on or before October 1 of any year exceeds ~~one~~ **two million five hundred thousand** dollars (~~\$1,000,000~~), **(\$2,500,000)**, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before October 1 of any year the amount to the credit of the fund is less than ~~one~~ **two million five hundred thousand** dollars (~~\$1,000,000~~), **(\$2,500,000)**, the payments of not more than ~~two~~ **three** and one-half percent (~~2.5%~~) **(3.5%)** of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment. **All entities liable for and paying an assessment under this subsection are entitled to a credit against the assessment for the payments made the same year on which the assessment was based. These payments must have been made to an employee who was injured before January 1, 2004, and who had a later period of disability entitling the employee to an increase in the average weekly wage, as set forth in section 8 of this chapter.**

Any credit due shall be computed by the following formula:

STEP ONE: Determine the amount of compensation the employee actually received based on the average weekly wage as of the last day worked before the later period of disability.

STEP TWO: Determine the amount of compensation the employee would have received based on the average weekly wage at the time of the original compensable injury.

STEP THREE: Determine the greater of zero (0) or the result of:

(A) the STEP ONE amount; minus

(B) the STEP TWO amount.

(d) The board shall enter into a contract with an actuary or another qualified firm that has experience in calculating worker's compensation liabilities. Not later than September 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund based on the previous year's claims and inform the board of the



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1 results of the calculation. If the amount to the credit of the fund is less
 2 than the amount required under subsection (c), the board may conduct
 3 an assessment under subsection (c). The board shall pay the costs of the
 4 contract under this subsection with money in the fund.

5 (e) An assessment collected under subsection (c) on an employer
 6 who is not self-insured must be assessed through a surcharge based on
 7 the employer's premium. An assessment collected under subsection (c)
 8 does not constitute an element of loss, but for the purpose of collection
 9 shall be treated as a separate cost imposed upon insured employers. A
 10 premium surcharge under this subsection must be collected at the same
 11 time and in the same manner in which the premium for coverage is
 12 collected, and must be shown as a separate amount on a premium
 13 statement. A premium surcharge under this subsection must be
 14 excluded from the definition of premium for all purposes, including the
 15 computation of agent commissions or premium taxes. However, an
 16 insurer may cancel a worker's compensation policy for nonpayment of
 17 the premium surcharge. A cancellation under this subsection must be
 18 carried out under the statutes applicable to the nonpayment of
 19 premiums.

20 (f) The sums shall be paid by the board to the treasurer of state, to
 21 be deposited in a special account known as the second injury fund. The
 22 funds are not a part of the general fund of the state. Any balance
 23 remaining in the account at the end of any fiscal year shall not revert
 24 to the general fund. The funds shall be used only for the payment of
 25 awards of compensation and expense of medical examinations or
 26 treatment made and ordered by the board and chargeable against the
 27 fund pursuant to this section, and shall be paid for that purpose by the
 28 treasurer of state upon award or order of the board.

29 (g) If an employee who is entitled to compensation under IC 22-3-2
 30 through IC 22-3-6 either:

31 (1) exhausts the maximum benefits under section 22 of this
 32 chapter without having received the full amount of award granted
 33 to the employee under section 10 of this chapter; or

34 (2) exhausts the employee's benefits under section 10 of this
 35 chapter;

36 then such employee may apply to the board, who may award the
 37 employee compensation from the second injury fund established by this
 38 section, as follows under subsection (h).

39 (h) An employee who has exhausted the employee's maximum
 40 benefits under section 10 of this chapter may be awarded additional
 41 compensation equal to sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the
 42 employee's average weekly wage at the time of the employee's injury,

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not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(i) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(j) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 18. IC 22-3-3-22, AS AMENDED BY P.L.31-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. (a) In computing the compensation under this law with respect to injuries occurring on and after April 1, 1963, and prior to April 1, 1965, the average weekly wages shall be considered to be not more than seventy dollars (\$70) nor less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1965, and prior to April 1, 1967, the average weekly wages shall be considered to be not more than seventy-five dollars (\$75) and not less than thirty dollars (\$30). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1967, and prior to April 1, 1969, the average weekly wages shall be considered to be not more than eighty-five dollars (\$85) and not less than thirty-five dollars (\$35). In computing the compensation under this law with respect to injuries occurring on and after April 1, 1969, and prior to July 1, 1971, the average weekly wages shall be considered to be not more than ninety-five dollars (\$95) and not less than thirty-five dollars (\$35). In



1 computing the compensation under this law with respect to injuries
 2 occurring on and after July 1, 1971, and prior to July 1, 1974, the
 3 average weekly wages shall be considered to be: (A) Not more than: (1)
 4 one hundred dollars (\$100) if no dependents; (2) one hundred five
 5 dollars (\$105) if one (1) dependent; (3) one hundred ten dollars (\$110)
 6 if two (2) dependents; (4) one hundred fifteen dollars (\$115) if three
 7 (3) dependents; (5) one hundred twenty dollars (\$120) if four (4)
 8 dependents; and (6) one hundred twenty-five dollars (\$125) if five (5)
 9 or more dependents; and (B) Not less than thirty-five dollars (\$35). In
 10 computing compensation for temporary total disability, temporary
 11 partial disability, and total permanent disability under this law with
 12 respect to injuries occurring on and after July 1, 1974, and before July
 13 1, 1976, the average weekly wages shall be considered to be (A) not
 14 more than one hundred thirty-five dollars (\$135), and (B) not less than
 15 seventy-five dollars (\$75). However, the weekly compensation payable
 16 shall in no case exceed the average weekly wages of the employee at
 17 the time of the injury. In computing compensation for temporary total
 18 disability, temporary partial disability and total permanent disability
 19 under this law with respect to injuries occurring on and after July 1,
 20 1976, and before July 1, 1977, the average weekly wages shall be
 21 considered to be (1) not more than one hundred fifty-six dollars (\$156)
 22 and (2) not less than seventy-five dollars (\$75). However, the weekly
 23 compensation payable shall not exceed the average weekly wages of
 24 the employee at the time of the injury. In computing compensation for
 25 temporary total disability, temporary partial disability, and total
 26 permanent disability, with respect to injuries occurring on and after
 27 July 1, 1977, and before July 1, 1979, the average weekly wages are
 28 considered to be (1) not more than one hundred eighty dollars (\$180);
 29 and (2) not less than seventy-five dollars (\$75). However, the weekly
 30 compensation payable may not exceed the average weekly wages of the
 31 employee at the time of the injury. In computing compensation for
 32 temporary total disability, temporary partial disability, and total
 33 permanent disability, with respect to injuries occurring on and after
 34 July 1, 1979, and before July 1, 1980, the average weekly wages are
 35 considered to be (1) not more than one hundred ninety-five dollars
 36 (\$195), and (2) not less than seventy-five dollars (\$75). However, the
 37 weekly compensation payable shall not exceed the average weekly
 38 wages of the employee at the time of the injury. In computing
 39 compensation for temporary total disability, temporary partial
 40 disability, and total permanent disability, with respect to injuries
 41 occurring on and after July 1, 1980, and before July 1, 1983, the
 42 average weekly wages are considered to be (1) not more than two

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hundred ten dollars (\$210), and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be (1) not more than two hundred thirty-four dollars (\$234) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be (1) not more than two hundred forty-nine dollars (\$249) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be (1) not more than two hundred sixty-seven dollars (\$267) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be (1) not more than two hundred eighty-five dollars (\$285) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury. In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be (1) not more than three hundred eighty-four dollars (\$384) and (2) not less than seventy-five dollars (\$75). However, the weekly compensation payable shall not exceed the average weekly wages of the employee at the time of the injury.

In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to injuries occurring on and after July 1, 1989, and before July 1, 1990, the

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1 average weekly wages are considered to be (1) not more than four
2 hundred eleven dollars (\$411) and (2) not less than seventy-five dollars
3 (\$75). However, the weekly compensation payable shall not exceed the
4 average weekly wages of the employee at the time of the injury.

5 In computing compensation for temporary total disability, temporary
6 partial disability, and total permanent disability, with respect to injuries
7 occurring on and after July 1, 1990, and before July 1, 1991, the
8 average weekly wages are considered to be (1) not more than four
9 hundred forty-one dollars (\$441) and (2) not less than seventy-five
10 dollars (\$75). However, the weekly compensation payable shall not
11 exceed the average weekly wages of the employee at the time of the
12 injury.

13 In computing compensation for temporary total disability, temporary
14 partial disability, and total permanent disability, with respect to injuries
15 occurring on and after July 1, 1991, and before July 1, 1992, the
16 average weekly wages are considered to be (1) not more than four
17 hundred ninety-two dollars (\$492) and (2) not less than seventy-five
18 dollars (\$75). However, the weekly compensation payable shall not
19 exceed the average weekly wages of the employee at the time of the
20 injury.

21 In computing compensation for temporary total disability, temporary
22 partial disability, and total permanent disability, with respect to injuries
23 occurring on and after July 1, 1992, and before July 1, 1993, the
24 average weekly wages are considered to be (1) not more than five
25 hundred forty dollars (\$540) and (2) not less than seventy-five dollars
26 (\$75). However, the weekly compensation payable shall not exceed the
27 average weekly wages of the employee at the time of the injury.

28 In computing compensation for temporary total disability, temporary
29 partial disability, and total permanent disability, with respect to injuries
30 occurring on and after July 1, 1993, and before July 1, 1994, the
31 average weekly wages are considered to be (1) not more than five
32 hundred ninety-one dollars (\$591) and (2) not less than seventy-five
33 dollars (\$75). However, the weekly compensation payable shall not
34 exceed the average weekly wages of the employee at the time of the
35 injury.

36 In computing compensation for temporary total disability, temporary
37 partial disability, and total permanent disability, with respect to injuries
38 occurring on and after July 1, 1994, and before July 1, 1997, the
39 average weekly wages are considered to be (1) not more than six
40 hundred forty-two dollars (\$642) and (2) not less than seventy-five
41 dollars (\$75). However, the weekly compensation payable shall not
42 exceed the average weekly wages of the employee at the time of the

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1 injury.

2 (b) In computing compensation for temporary total disability,
3 temporary partial disability, and total permanent disability, the average
4 weekly wages are considered to be:

5 (1) with respect to injuries occurring on and after July 1, 1997,
6 and before July 1, 1998:

7 (A) not more than six hundred seventy-two dollars (\$672); and

8 (B) not less than seventy-five dollars (\$75);

9 (2) with respect to injuries occurring on and after July 1, 1998,
10 and before July 1, 1999:

11 (A) not more than seven hundred two dollars (\$702); and

12 (B) not less than seventy-five dollars (\$75);

13 (3) with respect to injuries occurring on and after July 1, 1999,
14 and before July 1, 2000:

15 (A) not more than seven hundred thirty-two dollars (\$732);
16 and

17 (B) not less than seventy-five dollars (\$75);

18 (4) with respect to injuries occurring on and after July 1, 2000,
19 and before July 1, 2001:

20 (A) not more than seven hundred sixty-two dollars (\$762); and

21 (B) not less than seventy-five dollars (\$75);

22 (5) with respect to injuries occurring on and after July 1, 2001,
23 and before July 1, 2002:

24 (A) not more than eight hundred twenty-two dollars (\$822);
25 and

26 (B) not less than seventy-five dollars (\$75); ~~and~~

27 (6) with respect to injuries occurring on and after July 1, 2002,
28 **and before July 1, 2003:**

29 (A) not more than eight hundred eighty-two dollars (\$882);
30 and

31 (B) not less than seventy-five dollars (\$75);

32 **(7) with respect to injuries occurring on and after July 1,**
33 **2003, and before July 1, 2004:**

34 (A) not more than nine hundred forty-eight dollars (\$948);
35 and

36 (B) not less than two hundred six dollars (\$206); and

37 **(8) with respect to injuries occurring on and after July 1,**
38 **2004:**

39 (A) not more than one thousand fourteen dollars (\$1,014);
40 and

41 (B) not less than two hundred six dollars (\$206).

42 However, the weekly compensation payable shall not exceed the

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1 average weekly wages of the employee at the time of the injury.

2 (c) For the purpose of this section only and with respect to injuries
3 occurring on and after July 1, 1971, and prior to July 1, 1974, only, the
4 term "dependent" as used in this section shall mean persons defined as
5 presumptive dependents under section 19 of this chapter, except that
6 such dependency shall be determined as of the date of the injury to the
7 employee.

8 (d) With respect to any injury occurring on and after April 1, 1955,
9 and prior to April 1, 1957, the maximum compensation exclusive of
10 medical benefits, which shall be paid for an injury under any provisions
11 of this law or under any combination of its provisions shall not exceed
12 twelve thousand five hundred dollars (\$12,500) in any case. With
13 respect to any injury occurring on and after April 1, 1957 and prior to
14 April 1, 1963, the maximum compensation exclusive of medical
15 benefits, which shall be paid for an injury under any provision of this
16 law or under any combination of its provisions shall not exceed fifteen
17 thousand dollars (\$15,000) in any case. With respect to any injury
18 occurring on and after April 1, 1963, and prior to April 1, 1965, the
19 maximum compensation exclusive of medical benefits, which shall be
20 paid for an injury under any provision of this law or under any
21 combination of its provisions shall not exceed sixteen thousand five
22 hundred dollars (\$16,500) in any case. With respect to any injury
23 occurring on and after April 1, 1965, and prior to April 1, 1967, the
24 maximum compensation exclusive of medical benefits which shall be
25 paid for any injury under any provision of this law or any combination
26 of provisions shall not exceed twenty thousand dollars (\$20,000) in any
27 case. With respect to any injury occurring on and after April 1, 1967,
28 and prior to July 1, 1971, the maximum compensation exclusive of
29 medical benefits which shall be paid for an injury under any provision
30 of this law or any combination of provisions shall not exceed
31 twenty-five thousand dollars (\$25,000) in any case. With respect to any
32 injury occurring on and after July 1, 1971, and prior to July 1, 1974, the
33 maximum compensation exclusive of medical benefits which shall be
34 paid for any injury under any provision of this law or any combination
35 of provisions shall not exceed thirty thousand dollars (\$30,000) in any
36 case. With respect to any injury occurring on and after July 1, 1974,
37 and before July 1, 1976, the maximum compensation exclusive of
38 medical benefits which shall be paid for an injury under any provision
39 of this law or any combination of provisions shall not exceed forty-five
40 thousand dollars (\$45,000) in any case. With respect to an injury
41 occurring on and after July 1, 1976, and before July 1, 1977, the
42 maximum compensation, exclusive of medical benefits, which shall be

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1 paid for any injury under any provision of this law or any combination
2 of provisions shall not exceed fifty-two thousand dollars (\$52,000) in
3 any case. With respect to any injury occurring on and after July 1,
4 1977, and before July 1, 1979, the maximum compensation, exclusive
5 of medical benefits, which may be paid for an injury under any
6 provision of this law or any combination of provisions may not exceed
7 sixty thousand dollars (\$60,000) in any case. With respect to any injury
8 occurring on and after July 1, 1979, and before July 1, 1980, the
9 maximum compensation, exclusive of medical benefits, which may be
10 paid for an injury under any provisions of this law or any combination
11 of provisions may not exceed sixty-five thousand dollars (\$65,000) in
12 any case. With respect to any injury occurring on and after July 1,
13 1980, and before July 1, 1983, the maximum compensation, exclusive
14 of medical benefits, which may be paid for an injury under any
15 provisions of this law or any combination of provisions may not exceed
16 seventy thousand dollars (\$70,000) in any case. With respect to any
17 injury occurring on and after July 1, 1983, and before July 1, 1984, the
18 maximum compensation, exclusive of medical benefits, which may be
19 paid for an injury under any provisions of this law or any combination
20 of provisions may not exceed seventy-eight thousand dollars (\$78,000)
21 in any case. With respect to any injury occurring on and after July 1,
22 1984, and before July 1, 1985, the maximum compensation, exclusive
23 of medical benefits, which may be paid for an injury under any
24 provisions of this law or any combination of provisions may not exceed
25 eighty-three thousand dollars (\$83,000) in any case. With respect to
26 any injury occurring on and after July 1, 1985, and before July 1, 1986,
27 the maximum compensation, exclusive of medical benefits, which may
28 be paid for an injury under any provisions of this law or any
29 combination of provisions may not exceed eighty-nine thousand dollars
30 (\$89,000) in any case. With respect to any injury occurring on and after
31 July 1, 1986, and before July 1, 1988, the maximum compensation,
32 exclusive of medical benefits, which may be paid for an injury under
33 any provisions of this law or any combination of provisions may not
34 exceed ninety-five thousand dollars (\$95,000) in any case. With respect
35 to any injury occurring on and after July 1, 1988, and before July 1,
36 1989, the maximum compensation, exclusive of medical benefits,
37 which may be paid for an injury under any provisions of this law or any
38 combination of provisions may not exceed one hundred twenty-eight
39 thousand dollars (\$128,000) in any case.

40 With respect to any injury occurring on and after July 1, 1989, and
41 before July 1, 1990, the maximum compensation, exclusive of medical
42 benefits, which may be paid for an injury under any provisions of this

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1 law or any combination of provisions may not exceed one hundred
2 thirty-seven thousand dollars (\$137,000) in any case.

3 With respect to any injury occurring on and after July 1, 1990, and
4 before July 1, 1991, the maximum compensation, exclusive of medical
5 benefits, which may be paid for an injury under any provisions of this
6 law or any combination of provisions may not exceed one hundred
7 forty-seven thousand dollars (\$147,000) in any case.

8 With respect to any injury occurring on and after July 1, 1991, and
9 before July 1, 1992, the maximum compensation, exclusive of medical
10 benefits, that may be paid for an injury under any provisions of this law
11 or any combination of provisions may not exceed one hundred
12 sixty-four thousand dollars (\$164,000) in any case.

13 With respect to any injury occurring on and after July 1, 1992, and
14 before July 1, 1993, the maximum compensation, exclusive of medical
15 benefits, that may be paid for an injury under any provisions of this law
16 or any combination of provisions may not exceed one hundred eighty
17 thousand dollars (\$180,000) in any case.

18 With respect to any injury occurring on and after July 1, 1993, and
19 before July 1, 1994, the maximum compensation, exclusive of medical
20 benefits, that may be paid for an injury under any provisions of this law
21 or any combination of provisions may not exceed one hundred
22 ninety-seven thousand dollars (\$197,000) in any case.

23 With respect to any injury occurring on and after July 1, 1994, and
24 before July 1, 1997, the maximum compensation, exclusive of medical
25 benefits, which may be paid for an injury under any provisions of this
26 law or any combination of provisions may not exceed two hundred
27 fourteen thousand dollars (\$214,000) in any case.

28 (e) **Subject to IC 22-3-2-8**, the maximum compensation, exclusive
29 of medical benefits, that may be paid for an injury under any provision
30 of this law or any combination of provisions may not exceed the
31 following amounts in any case:

32 (1) With respect to an injury occurring on and after July 1, 1997,
33 and before July 1, 1998, two hundred twenty-four thousand
34 dollars (\$224,000).

35 (2) With respect to an injury occurring on and after July 1, 1998,
36 and before July 1, 1999, two hundred thirty-four thousand dollars
37 (\$234,000).

38 (3) With respect to an injury occurring on and after July 1, 1999,
39 and before July 1, 2000, two hundred forty-four thousand dollars
40 (\$244,000).

41 (4) With respect to an injury occurring on and after July 1, 2000,
42 and before July 1, 2001, two hundred fifty-four thousand dollars

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1 (\$254,000).

2 (5) With respect to an injury occurring on and after July 1, 2001,
3 and before July 1, 2002, two hundred seventy-four thousand
4 dollars (\$274,000).

5 (6) With respect to an injury occurring on and after July 1, 2002,
6 **and before July 1, 2003**, two hundred ninety-four thousand
7 dollars (\$294,000).

8 **(7) With respect to an injury occurring on or after July 1,**
9 **2003, the total of one hundred twenty-five (125) weeks of**
10 **temporary total disability compensation as set forth in section**
11 **8 of this chapter, plus one hundred (100) degrees of**
12 **permanent partial impairment as set forth in section 10 of this**
13 **chapter.**

14 SECTION 19. IC 22-3-3-27 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) The power and
16 jurisdiction of the worker's compensation board over each case shall be
17 continuing and from time to time it may, upon its own motion or upon
18 the application of either party, on account of a change in conditions,
19 make such modification or change in the award ending, lessening,
20 continuing, or extending the payments previously awarded, either by
21 agreement or upon hearing, as it may deem just, subject to the
22 maximum and minimum provided for in IC 22-3-2 through IC 22-3-6.

23 (b) Upon making any such change, the board shall immediately send
24 to each of the parties a copy of the modified award. No such
25 modification shall affect the previous award as to any money paid
26 thereunder.

27 (c) The board shall not make any such modification upon its own
28 motion nor shall any application therefor be filed by either party after
29 the expiration of two (2) years from the last day for which
30 compensation was paid under the original award made either by
31 agreement or upon hearing. ~~except that applications for increased~~
32 ~~permanent partial impairment are barred unless filed within one (1)~~
33 ~~year from the last day for which compensation was paid.~~ The board
34 may at any time correct any clerical error in any finding or award.

35 SECTION 20. IC 22-3-3-33 IS ADDED TO THE INDIANA CODE
36 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
37 1, 2003]: Sec. 33. (a) If an employee:

38 (1) receives an injury that results in a temporary total
39 disability or a temporary partial disability; and

40 (2) is capable of performing work with permanent limitations
41 or restrictions that prevent the employee from returning to
42 the position the employee held before the employee's injury;

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1 the employee may receive disabled from trade compensation.

2 (b) An employee may receive disabled from trade compensation
3 for a period not to exceed:

4 (1) fifty-two (52) consecutive weeks; or

5 (2) seventy-eight (78) aggregate weeks.

6 (c) An employee is entitled to receive disabled from trade
7 compensation in a weekly amount equal to the difference between
8 the employee's average weekly wage from employment at the time
9 of the injury and the employee's average weekly wage from
10 employment after the injury with the permanent restrictions or
11 limitations resulting from the injury.

12 (d) The amount of disabled from trade compensation may not
13 exceed the maximum average weekly wage amounts set forth in
14 section 22 of this chapter.

15 (e) Not later than sixty (60) days after the employee's release to
16 return to work with restrictions or limitations, the employee must
17 receive notice from the employer on a form provided by the board
18 that informs the employee that the employee has been released to
19 work with limitations or restrictions. The notice must include:

20 (1) an explanation of the limitations or restrictions placed on
21 the employee;

22 (2) the amount of disabled from trade compensation the
23 employee has been awarded; and

24 (3) information for the employee regarding the terms of this
25 section.

26 (f) Disabled from trade compensation is in addition to any other
27 compensation awarded to an employee as a result of a temporary
28 total disability or a permanent partial impairment.

29 (g) An employer may unilaterally convert an award of
30 compensation for a temporary total disability or a temporary
31 partial disability into disabled from trade compensation by filing
32 a copy of the notice required under subsection (e) with the board.

33 SECTION 21. IC 22-3-4-2 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) The worker's
35 compensation board may make rules not inconsistent with IC 22-3-2
36 through IC 22-3-6 for carrying out the provisions of IC 22-3-2 through
37 IC 22-3-6. Processes and procedures under IC 22-3-2 through
38 IC 22-3-6 shall be as summary and simple as reasonably may be. The
39 board or any member of the board shall have the power for the purpose
40 of IC 22-3-2 through IC 22-3-6 to subpoena witnesses, administer or
41 cause to have administered oaths, and to examine or cause to have
42 examined such parts of the books and records of the parties to a

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proceeding as relate to questions in dispute.

(b) The county sheriff shall serve all subpoenas of the board **and magistrates appointed under IC 22-3-1-1** and shall receive the same fees as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoenas of the board shall receive for attendance the fees and mileage for witnesses in civil cases in the courts.

(c) The circuit or superior court shall, on application of the board or any member of the board, enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers, and records.

SECTION 22. IC 22-3-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) If the employer and the injured employee or the injured employee's dependents disagree in regard to the compensation payable under IC 22-3-2 through IC 22-3-6 or, if they have reached such an agreement, which has been signed by them, filed with and approved by the worker's compensation board, and afterward disagree as to the continuance of payments under such agreement, or as to the period for which payments shall be made, or to the amount to be paid, because of a change in conditions since the making of such agreement, either party may then make an application to the board for the determination of the matters in dispute.

(b) Upon the filing of such application, the board shall set the date of hearing, which shall be as early as practicable, and shall notify the employee, employer, and attorneys of record in the manner prescribed by the board of the time and place of all hearings and requests for continuances. The hearing of all claims for compensation, on account of injuries occurring within the state, shall be held in the county in which the injury occurred, **or** in any adjoining county, except when the parties consent to a hearing elsewhere. Claims assigned to an individual board member that are considered to be of an emergency nature by that board member, may be heard in any county within the board member's jurisdiction.

(c) All disputes arising under IC 22-3-2 through IC 22-3-6, if not settled by the agreement of the parties interested therein, with the approval of the board, shall be determined by the board.

SECTION 23. IC 22-3-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. The board by any or all of its members **or magistrates appointed under IC 22-3-1-1** shall hear the parties at issue, their representatives and witnesses, and shall determine the dispute in a summary manner. The award shall be filed

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with the record of proceedings, and a copy thereof shall immediately be sent to each of the employee, employer, and attorney of record in the dispute.

SECTION 24. IC 22-3-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. In all proceedings before the worker's compensation board or in a court under IC 22-3-2 through IC 22-3-6, the costs shall be awarded and taxed as provided by law in ordinary civil actions in the circuit court. **Prejudgment interest shall be awarded at a rate of ten percent (10%) per year, accruing from the date of filing of the application of adjustment of claim as determined under section 5(a) of this chapter.**

SECTION 25. IC 22-3-6-1, AS AMENDED BY P.L.202-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. A parent corporation and its subsidiaries shall each be considered joint employers of the corporation's, the parent's, or the subsidiaries' employees for purposes of IC 22-3-2-6 and IC 22-3-3-31. Both a lessor and a lessee of employees shall each be considered joint employers of the employees provided by the lessor to the lessee for purposes of IC 22-3-2-6 and IC 22-3-3-31. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer. The term also includes an employer that provides on-the-job training under the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.) to the extent set forth in IC 22-3-2-2.5.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a charitable, religious, educational, or other nonprofit corporation,

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1 is an employee of the corporation under IC 22-3-2 through
2 IC 22-3-6.

3 (2) An executive officer of a municipal corporation or other
4 governmental subdivision or of a charitable, religious,
5 educational, or other nonprofit corporation may, notwithstanding
6 any other provision of IC 22-3-2 through IC 22-3-6, be brought
7 within the coverage of its insurance contract by the corporation by
8 specifically including the executive officer in the contract of
9 insurance. The election to bring the executive officer within the
10 coverage shall continue for the period the contract of insurance is
11 in effect, and during this period, the executive officers thus
12 brought within the coverage of the insurance contract are
13 employees of the corporation under IC 22-3-2 through IC 22-3-6.

14 (3) Any reference to an employee who has been injured, when the
15 employee is dead, also includes the employee's legal
16 representatives, dependents, and other
17 persons to whom compensation may be payable.

18 (4) An owner of a sole proprietorship may elect to include the
19 owner as an employee under IC 22-3-2 through IC 22-3-6 if the
20 owner is actually engaged in the proprietorship business. If the
21 owner makes this election, the owner must serve upon the owner's
22 insurance carrier and upon the board written notice of the
23 election. No owner of a sole proprietorship may be considered an
24 employee under IC 22-3-2 through IC 22-3-6 until the notice has
25 been received. If the owner of a sole proprietorship is an
26 independent contractor in the construction trades and does not
27 make the election provided under this subdivision, the owner
28 must obtain an affidavit of exemption under IC 22-3-2-14.5.

29 (5) A partner in a partnership may elect to include the partner as
30 an employee under IC 22-3-2 through IC 22-3-6 if the partner is
31 actually engaged in the partnership business. If a partner makes
32 this election, the partner must serve upon the partner's insurance
33 carrier and upon the board written notice of the election. No
34 partner may be considered an employee under IC 22-3-2 through
35 IC 22-3-6 until the notice has been received. If a partner in a
36 partnership is an independent contractor in the construction trades
37 and does not make the election provided under this subdivision,
38 the partner must obtain an affidavit of exemption under
39 IC 22-3-2-14.5.

40 (6) Real estate professionals are not employees under IC 22-3-2
41 through IC 22-3-6 if:

42 (A) they are licensed real estate agents;

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- 1 (B) substantially all their remuneration is directly related to
 2 sales volume and not the number of hours worked; and
 3 (C) they have written agreements with real estate brokers
 4 stating that they are not to be treated as employees for tax
 5 purposes.
 6 (7) A person is an independent contractor in the construction
 7 trades and not an employee under IC 22-3-2 through IC 22-3-6 if
 8 the person is an independent contractor under the guidelines of
 9 the United States Internal Revenue Service.
 10 (8) An owner-operator that provides a motor vehicle and the
 11 services of a driver under a written contract that is subject to
 12 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor
 13 carrier is not an employee of the motor carrier for purposes of
 14 IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be
 15 covered and have the owner-operator's drivers covered under a
 16 worker's compensation insurance policy or authorized
 17 self-insurance that insures the motor carrier if the owner-operator
 18 pays the premiums as requested by the motor carrier. An election
 19 by an owner-operator under this subdivision does not terminate
 20 the independent contractor status of the owner-operator for any
 21 purpose other than the purpose of this subdivision.
 22 (9) A member or manager in a limited liability company may elect
 23 to include the member or manager as an employee under
 24 IC 22-3-2 through IC 22-3-6 if the member or manager is actually
 25 engaged in the limited liability company business. If a member or
 26 manager makes this election, the member or manager must serve
 27 upon the member's or manager's insurance carrier and upon the
 28 board written notice of the election. A member or manager may
 29 not be considered an employee under IC 22-3-2 through IC 22-3-6
 30 until the notice has been received.
 31 (10) An unpaid participant under the federal School to Work
 32 Opportunities Act (20 U.S.C. 6101 et seq.) is an employee to the
 33 extent set forth in IC 22-3-2-2.5.
 34 **(11) An employee who is placed by a temporary employment**
 35 **agency and who, in the course of employment, performs**
 36 **personal services on a temporary basis to a third party under**
 37 **the direction and control of the third party, is an employee of**
 38 **the third party under IC 22-3-2 through IC 22-3-6. This**
 39 **exception does not include independent contractors in the**
 40 **construction trades, as set forth in subdivision (7).**
 41 (c) "Minor" means an individual who has not reached seventeen
 42 (17) years of age.

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(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-8.1-4-25, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-10.1-6-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

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(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employee's employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of his earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-10.1-6-7, the following formula shall be used. Calculate the product of:

(A) the student employee's hourly wage rate; multiplied by

(B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(5) In computing the average weekly wage for an employee who:

(A) has sustained a compensable occupational disease;

(B) has returned to work; and

(C) sustains a later period of disability due to that occupational disease after June 30, 2003;

the average weekly wage for the later period of disability shall be determined based on the average weekly wage at the time of that disability, subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in IC 22-3-3-22.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that

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1 reviews a medical service provider's bills or statements for the purpose
 2 of determining pecuniary liability. The term includes an employer's
 3 worker's compensation insurance carrier if the insurance carrier
 4 performs such a review.

5 (g) "Billing review standard" means the data used by a billing
 6 review service to determine pecuniary liability.

7 (h) "Community" means a geographic service area based on zip
 8 code districts defined by the United States Postal Service according to
 9 the following groupings:

10 (1) The geographic service area served by zip codes with the first
 11 three (3) digits 463 and 464.

12 (2) The geographic service area served by zip codes with the first
 13 three (3) digits 465 and 466.

14 (3) The geographic service area served by zip codes with the first
 15 three (3) digits 467 and 468.

16 (4) The geographic service area served by zip codes with the first
 17 three (3) digits 469 and 479.

18 (5) The geographic service area served by zip codes with the first
 19 three (3) digits 460, 461 (except 46107), and 473.

20 (6) The geographic service area served by the 46107 zip code and
 21 zip codes with the first three (3) digits 462.

22 (7) The geographic service area served by zip codes with the first
 23 three (3) digits 470, 471, 472, 474, and 478.

24 (8) The geographic service area served by zip codes with the first
 25 three (3) digits 475, 476, and 477.

26 (i) "Medical service provider" refers to a person or an entity that
 27 provides medical services, treatment, or supplies to an employee under
 28 IC 22-3-2 through IC 22-3-6.

29 (j) "Pecuniary liability" means the responsibility of an employer or
 30 the employer's insurance carrier for the payment of the charges for each
 31 specific service or product for human medical treatment provided
 32 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or
 33 less than the charges made by medical service providers at the eightieth
 34 percentile in the same community for like services or products.

35 SECTION 26. IC 22-3-7-2.5, AS ADDED BY P.L.235-1999,
 36 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2003]: Sec. 2.5. (a) As used in this section, "school to work
 38 student" refers to a student participating in on-the-job training under
 39 the federal School to Work Opportunities Act (20 U.S.C. 6101 et seq.).

40 (b) A school to work student is entitled to the following
 41 compensation and benefits under this chapter:

42 (1) Medical benefits.



(2) Permanent partial impairment compensation under section 16 of this chapter. Permanent partial impairment compensation for a school to work student shall be paid in a lump sum upon agreement or final award.

(3) In the case that death results from the injury:

(A) death benefits in a lump sum amount of one hundred seventy-five thousand dollars (\$175,000), **subject to section 21 of this chapter**, payable upon agreement or final award to any dependents of the student under sections 11 through 14 of this chapter, or, if the student has no dependents, to the student's parents; and

(B) burial compensation under section 15 of this chapter.

(c) For the sole purpose of modifying an award under section 27 of this chapter, a school to work student's average weekly wage is presumed to be equal to the federal minimum wage.

(d) A school to work student is not entitled to the following compensation under this chapter:

(1) Temporary total disability compensation under section 16 of this chapter.

(2) Temporary partial disability compensation under section 19 of this chapter.

(e) Except for remedies available under IC 5-2-6.1, recovery under subsection (b) is the exclusive right and remedy for:

(1) a school to work student; and

(2) the personal representatives, dependents, or next of kin, at common law or otherwise, of a school to work student;

on account of disablement or death by occupational disease arising out of and in the course of school to work employment.

SECTION 27. IC 22-3-7-16, AS AMENDED BY P.L.1-2001, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Compensation shall be allowed on account of disablement from occupational disease resulting in only temporary total disability to work or temporary partial disability to work beginning with the eighth day of such disability except for the medical benefits provided for in section 17 of this chapter. Compensation shall be allowed for the first seven (7) calendar days only as provided in this section. The first weekly installment of compensation for temporary disability is due fourteen (14) days after the disability begins. Not later than fifteen (15) days from the date that the first installment of compensation is due, the employer or the employer's insurance carrier shall tender to the employee or to the employee's dependents, with all compensation due, a properly prepared compensation agreement in a

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form prescribed by the board. Whenever an employer or the employer's insurance carrier denies or is not able to determine liability to pay compensation or benefits, the employer or the employer's insurance carrier shall notify the worker's compensation board and the employee in writing on a form prescribed by the worker's compensation board not later than thirty (30) days after the employer's knowledge of the claimed disablement. If a determination of liability cannot be made within thirty (30) days, the worker's compensation board may approve an additional thirty (30) days upon a written request of the employer or the employer's insurance carrier that sets forth the reasons that the determination could not be made within thirty (30) days and states the facts or circumstances that are necessary to determine liability within the additional thirty (30) days. More than thirty (30) days of additional time may be approved by the worker's compensation board upon the filing of a petition by the employer or the employer's insurance carrier that sets forth:

- (1) the extraordinary circumstances that have precluded a determination of liability within the initial sixty (60) days;
- (2) the status of the investigation on the date the petition is filed;
- (3) the facts or circumstances that are necessary to make a determination; and
- (4) a timetable for the completion of the remaining investigation.

If a determination of liability is not made within thirty (30) days after the date the disablement begins, and the employer is subsequently determined to be liable to pay compensation, the first installment of compensation must include the accrued weekly compensation and interest at the legal rate of interest specified in IC 24-4.6-1-101 computed from the date fourteen (14) days after the disability begins.

An employer who fails to comply with this section is subject to a civil penalty of fifty dollars (\$50), to be assessed and collected by the board upon notice and hearing. Civil penalties collected under this section shall be deposited in the state general fund.

(b) Once begun, temporary total disability benefits may not be terminated by the employer unless:

- (1) the employee has returned to work;
- (2) the employee has died;
- (3) the employee has refused to undergo a medical examination under section 20 of this chapter;
- (4) the employee has received five hundred (500) weeks of temporary total disability benefits or has been paid the maximum compensation allowable under section 19 of this chapter; ~~or~~

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(5) the employee is unable or unavailable to work for reasons unrelated to the compensable disease; or

(6) the employee returns to work with limitations or restrictions, and the employer converts temporary total disability or temporary partial disability compensation into disabled from trade compensation under section 16.5 of this chapter.

In all other cases the employer must notify the employee in writing **not later than thirty (30) days before the effective date of the termination** of the employer's intent to terminate the payment of temporary total disability benefits, and of the availability of employment, if any, on a form approved by the board. If the employee disagrees with the proposed termination, the employee must give written notice of disagreement to the board and the employer within seven (7) days after receipt of the notice of intent to terminate benefits. If the board and employer do not receive a notice of disagreement under this section, the employee's temporary total disability benefits shall be terminated. Upon receipt of the notice of disagreement, the board shall immediately contact the parties, which may be by telephone or other means and attempt to resolve the disagreement. If the board is unable to resolve the disagreement within ten (10) days of receipt of the notice of disagreement, the board shall immediately arrange for an evaluation of the employee by an independent medical examiner. The independent medical examiner shall be selected by mutual agreement of the parties or, if the parties are unable to agree, appointed by the board under IC 22-3-4-11. If the independent medical examiner determines that the employee is no longer temporarily disabled or is still temporarily disabled but can return to employment that the employer has made available to the employee, or if the employee fails or refuses to appear for examination by the independent medical examiner, temporary total disability benefits may be terminated. If either party disagrees with the opinion of the independent medical examiner, the party shall apply to the board for a hearing under section 27 of this chapter.

(c) An employer is not required to continue the payment of temporary total disability benefits for more than fourteen (14) days after the employer's proposed termination date unless the independent medical examiner determines that the employee is temporarily disabled and unable to return to any employment that the employer has made available to the employee.

(d) If it is determined that as a result of this section temporary total disability benefits were overpaid, the overpayment shall be deducted

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1 from any benefits due the employee under this section and, if there are
 2 no benefits due the employee or the benefits due the employee do not
 3 equal the amount of the overpayment, the employee shall be
 4 responsible for paying any overpayment which cannot be deducted
 5 from benefits due the employee.

6 (e) For disablements occurring on and after April 1, 1951, and prior
 7 to July 1, 1971, from occupational disease resulting in temporary total
 8 disability for any work there shall be paid to the disabled employee
 9 during such temporary total disability a weekly compensation equal to
 10 sixty percent (60%) of the employee's average weekly wages for a
 11 period not to exceed five hundred (500) weeks. Compensation shall be
 12 allowed for the first seven (7) calendar days only if the disability
 13 continues for longer than twenty-eight (28) days.

14 For disablements occurring on and after July 1, 1971, and prior to
 15 July 1, 1974, from occupational disease resulting in temporary total
 16 disability for any work there shall be paid to the disabled employee
 17 during such temporary total disability a weekly compensation equal to
 18 sixty percent (60%) of the employee's average weekly wages, as
 19 defined in section 19 of this chapter, for a period not to exceed five
 20 hundred (500) weeks. Compensation shall be allowed for the first seven
 21 (7) calendar days only if the disability continues for longer than
 22 twenty-eight (28) days.

23 For disablements occurring on and after July 1, 1974, and before
 24 July 1, 1976, from occupational disease resulting in temporary total
 25 disability for any work there shall be paid to the disabled employee
 26 during such temporary total disability a weekly compensation equal to
 27 sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the employee's average
 28 weekly wages, up to one hundred thirty-five dollars (\$135) average
 29 weekly wages, as defined in section 19 of this chapter, for a period not
 30 to exceed five hundred (500) weeks. Compensation shall be allowed for
 31 the first seven (7) calendar days only if the disability continues for
 32 longer than twenty-one (21) days.

33 For disablements occurring on and after July 1, 1976, from
 34 occupational disease resulting in temporary total disability for any work
 35 there shall be paid to the disabled employee during the temporary total
 36 disability weekly compensation equal to sixty-six and two-thirds
 37 percent ($66 \frac{2}{3}\%$) of the employee's average weekly wages, as defined
 38 in section 19 of this chapter, for a period not to exceed five hundred
 39 (500) weeks. Compensation shall be allowed for the first seven (7)
 40 calendar days only if the disability continues for longer than twenty-one
 41 (21) days.

42 (f) For disablements occurring on and after April 1, 1951, and prior

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1 to July 1, 1971, from occupational disease resulting in temporary
 2 partial disability for work there shall be paid to the disabled employee
 3 during such disability a weekly compensation equal to sixty percent
 4 (60%) of the difference between the employee's average weekly wages
 5 and the weekly wages at which the employee is actually employed after
 6 the disablement, for a period not to exceed three hundred (300) weeks.
 7 Compensation shall be allowed for the first seven (7) calendar days
 8 only if the disability continues for longer than twenty-eight (28) days.
 9 In case of partial disability after the period of temporary total disability,
 10 the later period shall be included as part of the maximum period
 11 allowed for partial disability.

12 For disablements occurring on and after July 1, 1971, and prior to
 13 July 1, 1974, from occupational disease resulting in temporary partial
 14 disability for work there shall be paid to the disabled employee during
 15 such disability a weekly compensation equal to sixty percent (60%) of
 16 the difference between the employee's average weekly wages, as
 17 defined in section 19 of this chapter, and the weekly wages at which the
 18 employee is actually employed after the disablement, for a period not
 19 to exceed three hundred (300) weeks. Compensation shall be allowed
 20 for the first seven (7) calendar days only if the disability continues for
 21 longer than twenty-eight (28) days. In case of partial disability after the
 22 period of temporary total disability, the latter period shall be included
 23 as a part of the maximum period allowed for partial disability.

24 For disablements occurring on and after July 1, 1974, from
 25 occupational disease resulting in temporary partial disability for work
 26 there shall be paid to the disabled employee during such disability a
 27 weekly compensation equal to sixty-six and two-thirds percent (66
 28 $\frac{2}{3}$ %) of the difference between the employee's average weekly wages,
 29 as defined in section 19 of this chapter, and the weekly wages at which
 30 ~~he~~ **the employee** is actually employed after the disablement, for a
 31 period not to exceed three hundred (300) weeks. Compensation shall
 32 be allowed for the first seven (7) calendar days only if the disability
 33 continues for longer than twenty-one (21) days. In case of partial
 34 disability after the period of temporary total disability, the latter period
 35 shall be included as a part of the maximum period allowed for partial
 36 disability.

37 (g) For disabilities occurring on and after April 1, 1951, and prior
 38 to April 1, 1955, from occupational disease in the following schedule,
 39 the employee shall receive in lieu of all other compensation, on account
 40 of such disabilities, a weekly compensation of sixty percent (60%) of
 41 the employee's average weekly wage; for disabilities occurring on and
 42 after April 1, 1955, and prior to July 1, 1971, from occupational disease

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1 in the following schedule, the employee shall receive in addition to
 2 disability benefits not exceeding twenty-six (26) weeks on account of
 3 said occupational disease a weekly compensation of sixty percent
 4 (60%) of the employee's average weekly wages.

5 For disabilities occurring on and after July 1, 1971, and before July
 6 1, 1977, from occupational disease in the following schedule, the
 7 employee shall receive in addition to disability benefits not exceeding
 8 twenty-six (26) weeks on account of said occupational disease a weekly
 9 compensation of sixty percent (60%) of ~~his~~ **the employee's** average
 10 weekly wages not to exceed one hundred dollars (\$100) average weekly
 11 wages, for the period stated for such disabilities respectively.

12 For disabilities occurring on and after July 1, 1977, and before July
 13 1, 1979, from occupational disease in the following schedule, the
 14 employee shall receive in addition to disability benefits not exceeding
 15 twenty-six (26) weeks on account of the occupational disease a weekly
 16 compensation of sixty percent (60%) of the employee's average weekly
 17 wages, not to exceed one hundred twenty-five dollars (\$125) average
 18 weekly wages, for the period stated for the disabilities.

19 For disabilities occurring on and after July 1, 1979, and before July
 20 1, 1988, from occupational disease in the following schedule, the
 21 employee shall receive in addition to disability benefits, not exceeding
 22 fifty-two (52) weeks on account of the occupational disease, a weekly
 23 compensation of sixty percent (60%) of the employee's average weekly
 24 wages, not to exceed one hundred twenty-five dollars (\$125) average
 25 weekly wages, for the period stated for the disabilities.

26 For disabilities occurring on and after July 1, 1988, and before July
 27 1, 1989, from occupational disease in the following schedule, the
 28 employee shall receive in addition to disability benefits, not exceeding
 29 seventy-eight (78) weeks on account of the occupational disease, a
 30 weekly compensation of sixty percent (60%) of the employee's average
 31 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
 32 average weekly wages, for the period stated for the disabilities.

33 For disabilities occurring on and after July 1, 1989, and before July
 34 1, 1990, from occupational disease in the following schedule, the
 35 employee shall receive in addition to disability benefits, not exceeding
 36 seventy-eight (78) weeks on account of the occupational disease, a
 37 weekly compensation of sixty percent (60%) of the employee's average
 38 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
 39 average weekly wages, for the period stated for the disabilities.

40 For disabilities occurring on and after July 1, 1990, and before July
 41 1, 1991, from occupational disease in the following schedule, the
 42 employee shall receive in addition to disability benefits, not exceeding

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seventy-eight (78) weeks on account of the occupational disease, a weekly compensation of sixty percent (60%) of the employee's average weekly wages, not to exceed two hundred dollars (\$200) average weekly wages, for the period stated for the disabilities.

(1) Amputations: For the loss by separation, of the thumb, sixty (60) weeks; of the index finger, forty (40) weeks; of the second finger, thirty-five (35) weeks; of the third or ring finger, thirty (30) weeks; of the fourth or little finger, twenty (20) weeks; of the hand by separation below the elbow, two hundred (200) weeks; of the arm above the elbow joint, two hundred fifty (250) weeks; of the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks; of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15) weeks; of the fifth or little toe, ten (10) weeks; of the foot below the knee joint, one hundred fifty (150) weeks; and of the leg above the knee joint, two hundred (200) weeks. The loss of more than one (1) phalange of a thumb or toe shall be considered as the loss of the entire thumb or toe. The loss of more than two (2) phalanges of a finger shall be considered as the loss of the entire finger. The loss of not more than one (1) phalange of a thumb or toe shall be considered as the loss of one-half (1/2) of the thumb or toe and compensation shall be paid for one-half (1/2) of the period for the loss of the entire thumb or toe. The loss of not more than two (2) phalanges of a finger shall be considered as the loss of one-half (1/2) the finger and compensation shall be paid for one-half (1/2) of the period for the loss of the entire finger.

(2) Loss of Use: The total permanent loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange shall be considered as the equivalent of the loss by separation of the arm, hand, thumb, finger, leg, foot, toe, or phalange and the compensation shall be paid for the same period as for the loss thereof by separation.

(3) Partial Loss of Use: For the permanent partial loss of the use of an arm, hand, thumb, finger, leg, foot, toe, or phalange, compensation shall be paid for the proportionate loss of the use of such arm, hand, thumb, finger, leg, foot, toe, or phalange.

(4) For disablements for occupational disease resulting in total permanent disability, five hundred (500) weeks.

(5) For the loss of both hands, or both feet, or the total sight of both eyes, or any two (2) of such losses resulting from the same disablement by occupational disease, five hundred (500) weeks.

(6) For the permanent and complete loss of vision by enucleation of an eye or its reduction to one-tenth (1/10) of normal vision with

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1 glasses, one hundred fifty (150) weeks, and for any other
 2 permanent reduction of the sight of an eye, compensation shall be
 3 paid for a period proportionate to the degree of such permanent
 4 reduction without correction or glasses. However, when such
 5 permanent reduction without correction or glasses would result in
 6 one hundred percent (100%) loss of vision, but correction or
 7 glasses would result in restoration of vision, then compensation
 8 shall be paid for fifty percent (50%) of such total loss of vision
 9 without glasses plus an additional amount equal to the
 10 proportionate amount of such reduction with glasses, not to
 11 exceed an additional fifty percent (50%).

12 (7) For the permanent and complete loss of hearing, two hundred
 13 (200) weeks.

14 (8) In all other cases of permanent partial impairment,
 15 compensation proportionate to the degree of such permanent
 16 partial impairment, in the discretion of the worker's compensation
 17 board, not exceeding five hundred (500) weeks.

18 (9) In all cases of permanent disfigurement, which may impair the
 19 future usefulness or opportunities of the employee, compensation
 20 in the discretion of the worker's compensation board, not
 21 exceeding two hundred (200) weeks, except that no compensation
 22 shall be payable under this paragraph where compensation shall
 23 be payable under subdivisions (1) through (8). Where
 24 compensation for temporary total disability has been paid, this
 25 amount of compensation shall be deducted from any
 26 compensation due for permanent disfigurement.

27 With respect to disablements in the following schedule occurring on
 28 and after July 1, 1991, the employee shall receive in addition to
 29 temporary total disability benefits, not exceeding one hundred
 30 twenty-five (125) weeks on account of the disablement, compensation
 31 in an amount determined under the following schedule to be paid
 32 weekly at a rate of sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the
 33 employee's average weekly wages during the fifty-two (52) weeks
 34 immediately preceding the week in which the disablement occurred:

35 (1) Amputation: For the loss by separation of the thumb, twelve
 36 (12) degrees of permanent impairment; of the index finger, eight
 37 (8) degrees of permanent impairment; of the second finger, seven
 38 (7) degrees of permanent impairment; of the third or ring finger,
 39 six (6) degrees of permanent impairment; of the fourth or little
 40 finger, four (4) degrees of permanent impairment; of the hand by
 41 separation below the elbow joint, forty (40) degrees of permanent
 42 impairment; of the arm above the elbow, fifty (50) degrees of

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1 permanent impairment; of the big toe, twelve (12) degrees of
 2 permanent impairment; of the second toe, six (6) degrees of
 3 permanent impairment; of the third toe, four (4) degrees of
 4 permanent impairment; of the fourth toe, three (3) degrees of
 5 permanent impairment; of the fifth or little toe, two (2) degrees of
 6 permanent impairment; of separation of the foot below the knee
 7 joint, thirty-five (35) degrees of permanent impairment; and of the
 8 leg above the knee joint, forty-five (45) degrees of permanent
 9 impairment.

10 (2) Amputations occurring on or after July 1, 1997: For the loss
 11 by separation of any of the body parts described in subdivision (1)
 12 on or after July 1, 1997, the dollar values per degree applying on
 13 the date of the injury as described in subsection (h) shall be
 14 multiplied by two (2). However, the doubling provision of this
 15 subdivision does not apply to a loss of use that is not a loss by
 16 separation.

17 (3) The loss of more than one (1) phalange of a thumb or toe shall
 18 be considered as the loss of the entire thumb or toe. The loss of
 19 more than two (2) phalanges of a finger shall be considered as the
 20 loss of the entire finger. The loss of not more than one (1)
 21 phalange of a thumb or toe shall be considered as the loss of
 22 one-half (1/2) of the degrees of permanent impairment for the loss
 23 of the entire thumb or toe. The loss of not more than one (1)
 24 phalange of a finger shall be considered as the loss of one-third
 25 (1/3) of the finger and compensation shall be paid for one-third
 26 (1/3) of the degrees payable for the loss of the entire finger. The
 27 loss of more than one (1) phalange of the finger but not more than
 28 two (2) phalanges of the finger shall be considered as the loss of
 29 one-half (1/2) of the finger and compensation shall be paid for
 30 one-half (1/2) of the degrees payable for the loss of the entire
 31 finger.

32 (4) For the loss by separation of both hands or both feet or the
 33 total sight of both eyes or any two (2) such losses in the same
 34 accident, one hundred (100) degrees of permanent impairment.

35 (5) For the permanent and complete loss of vision by enucleation
 36 or its reduction to one-tenth (1/10) of normal vision with glasses,
 37 thirty-five (35) degrees of permanent impairment.

38 (6) For the permanent and complete loss of hearing in one (1) ear,
 39 fifteen (15) degrees of permanent impairment, and in both ears,
 40 forty (40) degrees of permanent impairment.

41 (7) For the loss of one (1) testicle, ten (10) degrees of permanent
 42 impairment; for the loss of both testicles, thirty (30) degrees of

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1 permanent impairment.

2 (8) Loss of use: The total permanent loss of the use of an arm, a
3 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
4 considered as the equivalent of the loss by separation of the arm,
5 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
6 shall be paid in the same amount as for the loss by separation.
7 However, the doubling provision of subdivision (2) does not
8 apply to a loss of use that is not a loss by separation.

9 (9) Partial loss of use: For the permanent partial loss of the use of
10 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
11 phalange, compensation shall be paid for the proportionate loss of
12 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

13 (10) For disablements resulting in total permanent disability, the
14 amount payable for impairment or five hundred (500) weeks of
15 compensation, whichever is greater.

16 (11) For any permanent reduction of the sight of an eye less than
17 a total loss as specified in subdivision (5), the compensation shall
18 be paid in an amount proportionate to the degree of a permanent
19 reduction without correction or glasses. However, when a
20 permanent reduction without correction or glasses would result in
21 one hundred percent (100%) loss of vision, then compensation
22 shall be paid for fifty percent (50%) of the total loss of vision
23 without glasses, plus an additional amount equal to the
24 proportionate amount of the reduction with glasses, not to exceed
25 an additional fifty percent (50%).

26 (12) For any permanent reduction of the hearing of one (1) or both
27 ears, less than the total loss as specified in subdivision (6),
28 compensation shall be paid in an amount proportionate to the
29 degree of a permanent reduction.

30 (13) In all other cases of permanent partial impairment,
31 compensation proportionate to the degree of a permanent partial
32 impairment, in the discretion of the worker's compensation board,
33 not exceeding one hundred (100) degrees of permanent
34 impairment.

35 (14) In all cases of permanent disfigurement which may impair
36 the future usefulness or opportunities of the employee,
37 compensation, in the discretion of the worker's compensation
38 board, not exceeding forty (40) degrees of permanent impairment
39 except that no compensation shall be payable under this
40 subdivision where compensation is payable elsewhere in this
41 section.

42 (h) With respect to disablements occurring on and after July 1,

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1 1991, compensation for permanent partial impairment shall be paid
 2 according to the degree of permanent impairment for the disablement
 3 determined under subsection (d) and the following:

4 (1) With respect to disablements occurring on and after July 1,
 5 1991, and before July 1, 1992, for each degree of permanent
 6 impairment from one (1) to thirty-five (35), five hundred dollars
 7 (\$500) per degree; for each degree of permanent impairment from
 8 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
 9 degree; for each degree of permanent impairment above fifty (50),
 10 one thousand five hundred dollars (\$1,500) per degree.

11 (2) With respect to disablements occurring on and after July 1,
 12 1992, and before July 1, 1993, for each degree of permanent
 13 impairment from one (1) to twenty (20), five hundred dollars
 14 (\$500) per degree; for each degree of permanent impairment from
 15 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
 16 per degree; for each degree of permanent impairment from
 17 thirty-six (36) to fifty (50), one thousand three hundred dollars
 18 (\$1,300) per degree; for each degree of permanent impairment
 19 above fifty (50), one thousand seven hundred dollars (\$1,700) per
 20 degree.

21 (3) With respect to disablements occurring on and after July 1,
 22 1993, and before July 1, 1997, for each degree of permanent
 23 impairment from one (1) to ten (10), five hundred dollars (\$500)
 24 per degree; for each degree of permanent impairment from eleven
 25 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
 26 each degree of permanent impairment from twenty-one (21) to
 27 thirty-five (35), one thousand dollars (\$1,000) per degree; for
 28 each degree of permanent impairment from thirty-six (36) to fifty
 29 (50), one thousand four hundred dollars (\$1,400) per degree; for
 30 each degree of permanent impairment above fifty (50), one
 31 thousand seven hundred dollars (\$1,700) per degree.

32 (4) With respect to disablements occurring on and after July 1,
 33 1997, and before July 1, 1998, for each degree of permanent
 34 impairment from one (1) to ten (10), seven hundred fifty dollars
 35 (\$750) per degree; for each degree of permanent impairment from
 36 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
 37 degree; for each degree of permanent impairment from thirty-six
 38 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 39 degree; for each degree of permanent impairment above fifty (50),
 40 one thousand seven hundred dollars (\$1,700) per degree.

41 (5) With respect to disablements occurring on and after July 1,
 42 1998, and before July 1, 1999, for each degree of permanent

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impairment from one (1) to ten (10), seven hundred fifty dollars (\$750) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand four hundred dollars (\$1,400) per degree; for each degree of permanent impairment above fifty (50), one thousand seven hundred dollars (\$1,700) per degree.

(6) With respect to disablements occurring on and after July 1, 1999, and before July 1, 2000, for each degree of permanent impairment from one (1) to ten (10), nine hundred dollars (\$900) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), one thousand six hundred dollars (\$1,600) per degree; for each degree of permanent impairment above fifty (50), two thousand dollars (\$2,000) per degree.

(7) With respect to disablements occurring on and after July 1, 2000, and before July 1, 2001, for each degree of permanent impairment from one (1) to ten (10), one thousand one hundred dollars (\$1,100) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand dollars (\$2,000) per degree; for each degree of permanent impairment above fifty (50), two thousand five hundred fifty dollars (\$2,500) per degree.

(8) With respect to disablements occurring on and after July 1, 2001, **and before July 1, 2003**, for each degree of permanent impairment from one (1) to ten (10), one thousand three hundred dollars (\$1,300) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), one thousand five hundred dollars (\$1,500) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment above fifty (50), three thousand dollars (\$3,000) per degree.

(9) With respect to disablements occurring on and after July 1, 2003, and before July 1, 2004, for each degree of permanent impairment from one (1) to ten (10), two thousand fifty-six dollars (\$2,056) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand seven hundred six dollars (\$2,706) per degree; for each degree

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1 of permanent impairment from thirty-six (36) to fifty (50),
 2 three thousand three hundred six dollars (\$3,306) per degree;
 3 for each degree of permanent impairment above fifty (50),
 4 three thousand nine hundred six dollars (\$3,906) per degree.
 5 (10) With respect to disablements occurring on and after July
 6 1, 2004, for each degree of permanent impairment from one
 7 (1) to ten (10), two thousand four hundred six dollars (\$2,406)
 8 per degree; for each degree of permanent impairment from
 9 eleven (11) to thirty-five (35), three thousand eighty-one
 10 dollars (\$3,081) per degree; for each degree of permanent
 11 impairment from thirty-six (36) to fifty (50), three thousand
 12 seven hundred eighty-one dollars (\$3,781) per degree; for
 13 each degree of permanent impairment above fifty (50), four
 14 thousand five hundred thirty-one dollars (\$4,531) per degree.

15 (i) The average weekly wages used in the determination of
 16 compensation for permanent partial impairment under subsections (g)
 17 and (h) shall not exceed the following:

18 (1) With respect to disablements occurring on or after July 1,
 19 1991, and before July 1, 1992, four hundred ninety-two dollars
 20 (\$492).

21 (2) With respect to disablements occurring on or after July 1,
 22 1992, and before July 1, 1993, five hundred forty dollars (\$540).

23 (3) With respect to disablements occurring on or after July 1,
 24 1993, and before July 1, 1994, five hundred ninety-one dollars
 25 (\$591).

26 (4) With respect to disablements occurring on or after July 1,
 27 1994, and before July 1, 1997, six hundred forty-two dollars
 28 (\$642).

29 (5) With respect to disablements occurring on or after July 1,
 30 1997, and before July 1, 1998, six hundred seventy-two dollars
 31 (\$672).

32 (6) With respect to disablements occurring on or after July 1,
 33 1998, and before July 1, 1999, seven hundred two dollars (\$702).

34 (7) With respect to disablements occurring on or after July 1,
 35 1999, and before July 1, 2000, seven hundred thirty-two dollars
 36 (\$732).

37 (8) With respect to disablements occurring on or after July 1,
 38 2000, and before July 1, 2001, seven hundred sixty-two dollars
 39 (\$762).

40 (9) With respect to ~~injuries~~ **disablements** occurring on or after
 41 July 1, 2001, and before July 1, 2002, eight hundred twenty-two
 42 dollars (\$822).

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(10) With respect to ~~injuries~~ **disablements** occurring on or after July 1, 2002, **and before July 1, 2003**, eight hundred eighty-two dollars (\$882).

(11) With respect to disablements occurring on or after July 1, 2003, and before July 1, 2004, nine hundred forty-eight dollars (\$948).

(12) With respect to disablements occurring on or after July 1, 2004, one thousand fourteen dollars (\$1,014).

(j) If any employee, only partially disabled, refuses employment suitable to ~~his~~ **the employee's** capacity, ~~procured for him, he~~ **the employee** shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which ~~he~~ **the employee** suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, ~~he~~ **the**

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employee shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9); but the employee shall be entitled to compensation for that disability and from the time of that disability which will cover the longest period and the largest amount payable under this chapter.

(m) If an employee receives a permanent disability from occupational disease such as specified in subsection (g)(1), (g)(4), (g)(5), (g)(8), or (g)(9) after having sustained another such permanent disability in the same employment the employee shall be entitled to compensation for both such disabilities, but the total compensation shall be paid by extending the period and not by increasing the amount of weekly compensation and, when such previous and subsequent permanent disabilities, in combination result in total permanent disability or permanent total impairment, compensation shall be payable for such permanent total disability or impairment, but payments made for the previous disability or impairment shall be deducted from the total payment of compensation due.

(n) When an employee has been awarded or is entitled to an award of compensation for a definite period under this chapter for disability from occupational disease, which disablement occurs on and after April 1, 1951, and prior to April 1, 1963, and such employee dies from any other cause than such occupational disease, payment of the unpaid balance of such compensation, not exceeding three hundred (300) weeks, shall be made to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter, and compensation, not exceeding five hundred (500) weeks, shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter. When an employee has been awarded or is entitled to an award of compensation for a definite period from an occupational disease wherein disablement occurs on and after April 1, 1963, and such employee dies from other causes than such occupational disease, payment of the unpaid balance of such compensation not exceeding three hundred fifty (350) weeks shall be paid to the employee's dependents of the second and third class as defined in sections 11 through 14 of this chapter and compensation, not exceeding five hundred (500) weeks shall be made to the employee's dependents of the first class as defined in sections 11 through 14 of this chapter.

(o) Any payment made by the employer to the employee during the period of the employee's disability, or to the employee's dependents, which, by the terms of this chapter, was not due and payable when

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made, may, subject to the approval of the worker's compensation board, be deducted from the amount to be paid as compensation, but such deduction shall be made from the distal end of the period during which compensation must be paid, except in cases of temporary disability.

(p) When so provided in the compensation agreement or in the award of the worker's compensation board, compensation may be paid semimonthly, or monthly, instead of weekly.

(q) When the aggregate payments of compensation awarded by agreement or upon hearing to an employee or dependent under eighteen (18) years of age do not exceed one hundred dollars (\$100), the payment thereof may be made directly to such employee or dependent, except when the worker's compensation board shall order otherwise.

Whenever the aggregate payments of compensation, due to any person under eighteen (18) years of age, exceed one hundred dollars (\$100), the payment thereof shall be made to a trustee, appointed by the circuit or superior court, or to a duly qualified guardian, or, upon the order of the worker's compensation board, to a parent or to such minor person. The payment of compensation, due to any person eighteen (18) years of age or over, may be made directly to such person.

(r) If an employee, or a dependent, is mentally incompetent, or a minor at the time when any right or privilege accrues to the employee under this chapter, the employee's guardian or trustee may, in the employee's behalf, claim and exercise such right and privilege.

(s) All compensation payments named and provided for in this section, shall mean and be defined to be for only such occupational diseases and disabilities therefrom as are proved by competent evidence, of which there are or have been objective conditions or symptoms proven, not within the physical or mental control of the employee himself.

(t) Each payment of monetary compensation due under this section shall be reduced or increased as provided in section 21 of this chapter.

SECTION 28. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 16.1. (a) As used in this section, "board" refers to the worker's compensation board created by IC 22-3-1-1.**

(b) If an employee suffers a second disablement from occupational disease resulting in the permanent and total impairment of the employee, the employer is liable only for the compensation payable for the second injury. However, in addition to the compensation payable for the second injury and after the

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1 employer completes the payment of the compensation, the
 2 employee shall be paid the remainder of the compensation that
 3 would be due for the total permanent impairment out of the
 4 occupational disease second injury fund.

5 (c) Whenever the board determines under the procedures set
 6 forth in subsection (d) that an assessment is necessary to ensure
 7 that fund beneficiaries continue to receive compensation in a timely
 8 manner for a reasonable prospective period, the board shall send
 9 notice not later than October 1 in any year to:

10 (1) all insurance carriers and other entities insuring or
 11 providing coverage to employers that are or may be liable
 12 under this article to pay compensation for personal injuries to
 13 or the death of one (1) of their employees from an
 14 occupational disease; and

15 (2) each employer carrying the employer's own risk for
 16 personal injuries to or the death of one (1) of its employees
 17 from an occupational disease;

18 stating that an assessment is necessary. The board may conduct an
 19 assessment under this subsection not more than one (1) time
 20 annually. Every insurance carrier insuring employers that are or
 21 may be liable under this article to pay compensation for
 22 disablement or death from occupational diseases of their employees
 23 under this article and every employer carrying the employer's own
 24 risk shall, not later than thirty (30) days after receiving notice from
 25 the board, pay to the worker's compensation board for the benefit
 26 of the occupational disease second injury fund. The payment shall
 27 be in a sum equal to three and one-half percent (3.5%) of the total
 28 amount of all payments under this chapter for occupational
 29 diseases paid to employees with occupational diseases or their
 30 beneficiaries under this chapter for the calendar year next
 31 preceding the due date of the payment. If the amount to the credit
 32 of the occupational diseases second injury fund as of October 1 of
 33 any year exceeds two million five hundred thousand dollars
 34 (\$2,500,000), the payments of three and one-half percent (3.5%)
 35 shall not be assessed or collected during the ensuing year.
 36 However, if on October 1 of any year the amount to the credit of
 37 the fund is less than two million five hundred thousand dollars
 38 (\$2,500,000), the payments of three and one-half percent (3.5%) of
 39 the total amount of all payments under this chapter for
 40 occupational diseases paid to employees with occupational diseases
 41 or their beneficiaries under this chapter for the calendar year next
 42 preceding that date shall be resumed and paid into the fund.



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1 (d) The board shall enter into a contract with an actuary or
2 another qualified firm that has experience in calculating worker's
3 compensation liabilities. Not later than September 1 of each year,
4 the actuary or other qualified firm shall calculate the
5 recommended funding level of the fund based on the previous
6 year's claims and inform the board of the results of the calculation.
7 If the amount to the credit of the fund is less than the amount
8 required under subsection (c), the board may conduct an
9 assessment under subsection (c). The board shall pay the costs of
10 the contract under this subsection with money in the fund.

11 (e) An assessment collected under subsection (c) on an employer
12 that is not self-insured must be assessed through a surcharge based
13 on the employer's premium. An assessment collected under
14 subsection (c) does not constitute an element of loss, but for the
15 purpose of collection shall be treated as a separate cost imposed
16 upon insured employers. A premium surcharge under this
17 subsection must be collected at the same time and in the same
18 manner in which the premium for coverage is collected and must
19 be shown as a separate amount on a premium statement. A
20 premium surcharge under this subsection must be excluded from
21 the definition of premium for all purposes, including the
22 computation of agent commissions or premium taxes. However, an
23 insurer may cancel a worker's compensation policy for
24 nonpayment of the premium surcharge. A cancellation under this
25 subsection must be carried out under the statutes applicable to the
26 nonpayment of premiums.

27 (f) The occupational diseases second injury fund is created. The
28 sums under this section shall be paid by the worker's compensation
29 board to the treasurer of state, to be deposited in the occupational
30 diseases second injury fund. The fund is not part of the state
31 general fund. Any balance remaining in the account at the end of
32 any fiscal year does not revert to the state general fund. The fund
33 shall be used only for the payment of awards of compensation and
34 expense of medical examinations or treatment made and ordered
35 by the board and chargeable against the occupational diseases
36 second injury fund under this section and shall be paid for that
37 purpose by the treasurer of state upon award or order of the
38 board.

39 (g) If an employee who is entitled to compensation under this
40 chapter either:

41 (1) exhausts the maximum benefits under section 19 of this
42 chapter without having received the full amount of award

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1 granted to the employee under section 16 of this chapter; or
 2 (2) exhausts the employee's benefits under section 16 of this
 3 chapter;

4 the employee may apply to the worker's compensation board,
 5 which may award the employee compensation from the
 6 occupational diseases second injury fund established by this
 7 section, as provided under subsection (b).

8 (h) An employee who has exhausted the employee's maximum
 9 benefits under section 16 of this chapter may be awarded
 10 additional compensation equal to sixty-six and two-thirds percent
 11 (66 2/3%) of the employee's average weekly wage at the time of the
 12 employee's disablement from occupational disease, not to exceed
 13 the maximum then applicable under section 19 of this chapter, for
 14 a period not to exceed one hundred fifty (150) weeks, upon
 15 competent evidence sufficient to establish:

16 (1) that the employee is totally and permanently disabled from
 17 an occupational disease of which there are or have been
 18 objective conditions and symptoms proven that are not within
 19 the physical or mental control of the employee; and

20 (2) that the employee is unable to support the employee in any
 21 gainful employment not associated with rehabilitative or
 22 vocational therapy.

23 (i) The additional award may be renewed during the employee's
 24 total and permanent disability after appropriate hearings by the
 25 worker's compensation board for successive periods not to exceed
 26 one hundred fifty (150) weeks each.

27 SECTION 29. IC 22-3-7-16.5 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2003]: Sec. 16.5. (a) If an employee:

30 (1) suffers an occupational disease that results in a temporary
 31 total disability or a temporary partial disability; and

32 (2) is capable of performing work with permanent limitations
 33 or restrictions that prevent the employee from returning to
 34 the position the employee held before the employee's
 35 occupational disease;

36 the employee may receive disabled from trade compensation.

37 (b) An employee may receive disabled from trade compensation
 38 for a period not to exceed:

39 (1) fifty-two (52) consecutive weeks; or

40 (2) seventy-eight (78) aggregate weeks.

41 (c) An employee is entitled to receive disabled from trade
 42 compensation in a weekly amount equal to the difference between



the employee's average weekly wage from employment at the time of the injury and the employee's average weekly wage from employment after the injury with the permanent restrictions or limitations resulting from the injury.

(d) The amount of disabled from trade compensation may not exceed the maximum average weekly wage amounts set forth in section 19 of this chapter.

(e) Not later than sixty (60) days after the employee's release to return to work with restrictions or limitations, the employee must receive notice from the employer on a form provided by the board that informs the employee that the employee has been released to work with limitations or restrictions. The notice must include:

- (1) an explanation of the limitations or restrictions placed on the employee;
- (2) the amount of disabled from trade compensation the employee has been awarded; and
- (3) information for the employee regarding the terms of this section.

(f) Disabled from trade compensation is in addition to any other compensation awarded to an employee as a result of a temporary total disability or a permanent partial impairment.

(g) An employer may unilaterally convert an award of compensation for a temporary total disability or a temporary partial disability into disabled from trade compensation by filing a copy of the notice required under subsection (e) with the board.

SECTION 30. IC 22-3-7-17, AS AMENDED BY P.L.31-2000, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational

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1 disease, the employer shall furnish such physician, services, and
 2 supplies, and the worker's compensation board may, on proper
 3 application of either party, require that treatment by such physician and
 4 such services and supplies be furnished by or on behalf of the employer
 5 as the board may deem reasonably necessary. After an employee's
 6 occupational disease has been adjudicated by agreement or award on
 7 the basis of permanent partial impairment and within the statutory
 8 period for review in such case as provided in section 27(i) of this
 9 chapter, the employer may continue to furnish a physician or a surgeon
 10 and other medical services and supplies, and the board may, within
 11 such statutory period for review as provided in section 27(i) of this
 12 chapter, on a proper application of either party, require that treatment
 13 by such physician or surgeon and such services and supplies be
 14 furnished by and on behalf of the employer as the board may deem
 15 necessary to limit or reduce the amount and extent of such impairment.
 16 The refusal of the employee to accept such services and supplies when
 17 so provided by or on behalf of the employer, shall bar the employee
 18 from all compensation otherwise payable during the period of such
 19 refusal and ~~his~~ **the employee's** right to prosecute any proceeding under
 20 this chapter shall be suspended and abated until such refusal ceases.
 21 The employee must be served with a notice setting forth the
 22 consequences of the refusal under this section. The notice must be in
 23 a form prescribed by the worker's compensation board. No
 24 compensation for permanent total impairment, permanent partial
 25 impairment, permanent disfigurement, or death shall be paid or payable
 26 for that part or portion of such impairment, disfigurement, or death
 27 which is the result of the failure of such employee to accept such
 28 treatment, services, and supplies, provided that an employer may at any
 29 time permit an employee to have treatment for ~~his~~ **the employee's**
 30 disease or injury by spiritual means or prayer in lieu of such physician,
 31 services, and supplies.

32 **(c) After the employee's medical treatment begins, neither the**
 33 **employer nor the employer's insurance carrier has the right to**
 34 **transfer or otherwise redirect an employee's medical treatment to**
 35 **another physician unless:**

- 36 **(1) the employee makes the transfer request;**
- 37 **(2) the attending physician requests that the physician's**
 38 **treatment of the employee be discontinued; or**
- 39 **(3) the worker's compensation board determines that there is**
 40 **good cause for the transfer.**

41 **(d) If the employer or the employer's insurance carrier desires**
 42 **to transfer or redirect the employee's medical treatment for good**



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1 cause, the employer or the employer's insurance carrier shall file
 2 a transfer request with the worker's compensation board on forms
 3 prescribed by the board. A transfer may not occur until the
 4 worker's compensation board issues an order granting the transfer
 5 request.

6 (e) A representative of the employer or the employer's insurance
 7 carrier, including a case manager or a rehabilitation nurse, may
 8 not attend or be present during the employee's medical treatment
 9 unless the representative complies with the following provisions:

10 (1) The representative may not attend or be present during
 11 the employee's medical treatment unless both the employee
 12 and the treating medical personnel provide express written
 13 consent.

14 (2) Not later than the time at which the medical treatment
 15 that the representative wishes to attend begins, the
 16 representative shall inform the employee and the treating
 17 medical personnel that the written consent described in
 18 subdivision (1) is required before the representative may
 19 attend or be present during the employee's medical treatment.

20 (3) The representative may not jeopardize or threaten to
 21 jeopardize the payment of the employee's compensation under
 22 this article because the employee fails or refuses to complete
 23 the written consent described in subdivision (1).

24 (4) The representative may not cause the employee to believe
 25 that the employee's compensation under this article may be
 26 terminated or reduced because the employee fails or refuses
 27 to complete the written consent described in subdivision (1).

28 (5) The representative shall obtain the written consents
 29 required by subdivision (1) on forms prescribed by the
 30 worker's compensation board.

31 (f) Regardless of when it occurs, where a compensable occupational
 32 disease results in the amputation of a body part, the enucleation of an
 33 eye, or the loss of natural teeth, the employer shall furnish an
 34 appropriate artificial member, braces, and prosthodontics. The cost of
 35 repairs to or replacements for the artificial members, braces, or
 36 prosthodontics that result from a compensable occupational disease
 37 pursuant to a prior award and are required due to either medical
 38 necessity or normal wear and tear, determined according to the
 39 employee's individual use, but not abuse, of the artificial member,
 40 braces, or prosthodontics, shall be paid from the second injury fund
 41 upon order or award of the worker's compensation board. The
 42 employee is not required to meet any other requirement for admission

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to the second injury fund.

(d) (g) If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within the period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

(e) (h) This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

- (1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or
- (2) makes the findings of a provider chosen in this manner binding upon the parties.

(f) (i) The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 31. IC 22-3-7-19, AS AMENDED BY P.L.31-2000, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

- (1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:
 - (A) not more than one hundred thirty-five dollars (\$135); and
 - (B) not less than seventy-five dollars (\$75);
- (2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:
 - (A) not more than one hundred fifty-six dollars (\$156); and
 - (B) not less than seventy-five dollars (\$75);
- (3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:
 - (A) not more than one hundred eighty dollars (\$180); and
 - (B) not less than seventy-five dollars (\$75);



(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars (\$195); and

(B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars (\$210); and

(B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars (\$234); and

(B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars (\$249); and

(B) not less than seventy-five dollars (\$75).

(b) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1985, and before July 1, 1986, the average weekly wages are considered to be:

(1) not more than two hundred sixty-seven dollars (\$267); and

(2) not less than seventy-five dollars (\$75).

(c) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1986, and before July 1, 1988, the average weekly wages are considered to be:

(1) not more than two hundred eighty-five dollars (\$285); and

(2) not less than seventy-five dollars (\$75).

(d) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1988, and before July 1, 1989, the average weekly wages are considered to be:

(1) not more than three hundred eighty-four dollars (\$384); and

(2) not less than seventy-five dollars (\$75).

(e) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1989, and before July 1, 1990, the average weekly wages are considered to be:

(1) not more than four hundred eleven dollars (\$411); and

(2) not less than seventy-five dollars (\$75).

(f) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect

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to occupational diseases occurring on and after July 1, 1990, and before July 1, 1991, the average weekly wages are considered to be:

- (1) not more than four hundred forty-one dollars (\$441); and
- (2) not less than seventy-five dollars (\$75).

(g) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1991, and before July 1, 1992, the average weekly wages are considered to be:

- (1) not more than four hundred ninety-two dollars (\$492); and
- (2) not less than seventy-five dollars (\$75).

(h) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1992, and before July 1, 1993, the average weekly wages are considered to be:

- (1) not more than five hundred forty dollars (\$540); and
- (2) not less than seventy-five dollars (\$75).

(i) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1993, and before July 1, 1994, the average weekly wages are considered to be:

- (1) not more than five hundred ninety-one dollars (\$591); and
- (2) not less than seventy-five dollars (\$75).

(j) In computing compensation for temporary total disability, temporary partial disability and total permanent disability, with respect to occupational diseases occurring on and after July 1, 1994, and before July 1, 1997, the average weekly wages are considered to be:

- (1) not more than six hundred forty-two dollars (\$642); and
- (2) not less than seventy-five dollars (\$75).

(k) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability, the average weekly wages are considered to be:

- (1) with respect to occupational diseases occurring on and after July 1, 1997, and before July 1, 1998:
 - (A) not more than six hundred seventy-two dollars (\$672); and
 - (B) not less than seventy-five dollars (\$75);
- (2) with respect to occupational diseases occurring on and after July 1, 1998, and before July 1, 1999:
 - (A) not more than seven hundred two dollars (\$702); and
 - (B) not less than seventy-five dollars (\$75);
- (3) with respect to occupational diseases occurring on and after July 1, 1999, and before July 1, 2000:
 - (A) not more than seven hundred thirty-two dollars (\$732);

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- 1 and
- 2 (B) not less than seventy-five dollars (\$75);
- 3 (4) with respect to occupational diseases occurring on and after
- 4 July 1, 2000, and before July 1, 2001:
- 5 (A) not more than seven hundred sixty-two dollars (\$762); and
- 6 (B) not less than seventy-five dollars (\$75);
- 7 (5) with respect to ~~disabilities~~ **occupational diseases** occurring
- 8 on and after July 1, 2001, and before July 1, 2002:
- 9 (A) not more than eight hundred twenty-two dollars (\$822);
- 10 and
- 11 (B) not less than seventy-five dollars (\$75); ~~and~~
- 12 (6) with respect to ~~disabilities~~ **occupational diseases** occurring
- 13 on and after July 1, 2002, **and before July 1, 2003:**
- 14 (A) not more than eight hundred eighty-two dollars (\$882);
- 15 and
- 16 (B) not less than seventy-five dollars (\$75);
- 17 **(7) with respect to occupational diseases occurring on and**
- 18 **after July 1, 2003, and before July 1, 2004:**
- 19 (A) not more than nine hundred forty-eight dollars (\$948);
- 20 and,
- 21 (B) not less than two hundred six dollars (\$206); and
- 22 **(8) with respect to occupational diseases occurring on and**
- 23 **after July 1, 2004:**
- 24 (A) not more than one thousand fourteen dollars (\$1,014);
- 25 and
- 26 **(B) not less than two hundred six dollars (\$206).**
- 27 (l) The maximum compensation that shall be paid for occupational
- 28 disease and its results under any one (1) or more provisions of this
- 29 chapter with respect to disability or death occurring:
- 30 (1) on and after July 1, 1974, and before July 1, 1976, shall not
- 31 exceed forty-five thousand dollars (\$45,000) in any case;
- 32 (2) on and after July 1, 1976, and before July 1, 1977, shall not
- 33 exceed fifty-two thousand dollars (\$52,000) in any case;
- 34 (3) on and after July 1, 1977, and before July 1, 1979, may not
- 35 exceed sixty thousand dollars (\$60,000) in any case;
- 36 (4) on and after July 1, 1979, and before July 1, 1980, may not
- 37 exceed sixty-five thousand dollars (\$65,000) in any case;
- 38 (5) on and after July 1, 1980, and before July 1, 1983, may not
- 39 exceed seventy thousand dollars (\$70,000) in any case;
- 40 (6) on and after July 1, 1983, and before July 1, 1984, may not
- 41 exceed seventy-eight thousand dollars (\$78,000) in any case; and
- 42 (7) on and after July 1, 1984, and before July 1, 1985, may not

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1 exceed eighty-three thousand dollars (\$83,000) in any case.

2 (m) The maximum compensation with respect to disability or death
3 occurring on and after July 1, 1985, and before July 1, 1986, which
4 shall be paid for occupational disease and the results thereof under the
5 provisions of this chapter or under any combination of its provisions
6 may not exceed eighty-nine thousand dollars (\$89,000) in any case.
7 The maximum compensation with respect to disability or death
8 occurring on and after July 1, 1986, and before July 1, 1988, which
9 shall be paid for occupational disease and the results thereof under the
10 provisions of this chapter or under any combination of its provisions
11 may not exceed ninety-five thousand dollars (\$95,000) in any case. The
12 maximum compensation with respect to disability or death occurring
13 on and after July 1, 1988, and before July 1, 1989, that shall be paid for
14 occupational disease and the results thereof under this chapter or under
15 any combination of its provisions may not exceed one hundred
16 twenty-eight thousand dollars (\$128,000) in any case.

17 (n) The maximum compensation with respect to disability or death
18 occurring on and after July 1, 1989, and before July 1, 1990, that shall
19 be paid for occupational disease and the results thereof under this
20 chapter or under any combination of its provisions may not exceed one
21 hundred thirty-seven thousand dollars (\$137,000) in any case.

22 (o) The maximum compensation with respect to disability or death
23 occurring on and after July 1, 1990, and before July 1, 1991, that shall
24 be paid for occupational disease and the results thereof under this
25 chapter or under any combination of its provisions may not exceed one
26 hundred forty-seven thousand dollars (\$147,000) in any case.

27 (p) The maximum compensation with respect to disability or death
28 occurring on and after July 1, 1991, and before July 1, 1992, that shall
29 be paid for occupational disease and the results thereof under this
30 chapter or under any combination of the provisions of this chapter may
31 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
32 case.

33 (q) The maximum compensation with respect to disability or death
34 occurring on and after July 1, 1992, and before July 1, 1993, that shall
35 be paid for occupational disease and the results thereof under this
36 chapter or under any combination of the provisions of this chapter may
37 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

38 (r) The maximum compensation with respect to disability or death
39 occurring on and after July 1, 1993, and before July 1, 1994, that shall
40 be paid for occupational disease and the results thereof under this
41 chapter or under any combination of the provisions of this chapter may
42 not exceed one hundred ninety-seven thousand dollars (\$197,000) in

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any case.

(s) The maximum compensation with respect to disability or death occurring on and after July 1, 1994, and before July 1, 1997, that shall be paid for occupational disease and the results thereof under this chapter or under any combination of the provisions of this chapter may not exceed two hundred fourteen thousand dollars (\$214,000) in any case.

(t) The maximum compensation that shall be paid for occupational disease and the results of an occupational disease under this chapter or under any combination of the provisions of this chapter, **subject to section 21 of this chapter**, may not exceed the following amounts in any case:

(1) With respect to disability or death occurring on and after July 1, 1997, and before July 1, 1998, two hundred twenty-four thousand dollars (\$224,000).

(2) With respect to disability or death occurring on and after July 1, 1998, and before July 1, 1999, two hundred thirty-four thousand dollars (\$234,000).

(3) With respect to disability or death occurring on and after July 1, 1999, and before July 1, 2000, two hundred forty-four thousand dollars (\$244,000).

(4) With respect to disability or death occurring on and after July 1, 2000, and before July 1, 2001, two hundred fifty-four thousand dollars (\$254,000).

(5) With respect to disability or death occurring on and after July 1, 2001, and before July 1, 2002, two hundred seventy-four thousand dollars (\$274,000).

(6) With respect to disability or death occurring on and after July 1, 2002, **and before July 1, 2003**, two hundred ninety-four thousand dollars (\$294,000).

(7) With respect to a disability or death occurring on or after July 1, 2003, the total of one hundred twenty-five (125) weeks of temporary total disability compensation plus one hundred (100) degrees of permanent partial impairment, both as set forth in section 16 of this chapter.

(u) For all disabilities occurring before July 1, 1985, "average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the last exposure during the period of fifty-two (52) weeks immediately preceding the last day of the last exposure divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of

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the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted. Where the employment prior to the last day of the last exposure extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which, during the fifty-two (52) weeks previous to the last day of the last exposure, was being earned by a person in the same grade employed at the same work by the same employer, or if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee in lieu of wages or a specified part of the wage contract, they shall be deemed a part of the employee's earnings.

(v) For all disabilities occurring on and after July 1, 1985, "average weekly wages" means the earnings of the injured employee during the period of fifty-two (52) weeks immediately preceding the disability divided by fifty-two (52). If the employee lost seven (7) or more calendar days during the period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts of weeks remaining after the time lost has been deducted. If employment before the date of disability extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts of weeks during which the employee earned wages shall be followed if results just and fair to both parties will be obtained. If by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages for the employee, the employee's average weekly wages shall be considered to be the average weekly amount that, during the fifty-two (52) weeks before the date of disability, was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in that same class of employment in the same district. Whenever allowances of any character are made to an employee instead of wages or a specified part of the wage contract, they shall be

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considered a part of the employee's earnings.

(w) **In computing the average weekly wage for an employee who:**

(1) has sustained a compensable occupational disease;

(2) has returned to work; and

(3) sustains a later period of disability due to that occupational disease after June 30, 2003;

the average weekly wage for the later period of disability shall be determined based on the average weekly wage at the time of that disability, subject to the maximum average weekly wage in effect as of the last day worked, computed as set forth in this section.

(x) The provisions of this article may not be construed to result in an award of benefits in which the number of weeks paid or to be paid for temporary total disability, temporary partial disability, or permanent total disability benefits combined exceeds five hundred (500) weeks. This section shall not be construed to prevent a person from applying for an award under IC 22-3-3-13. However, in case of permanent total disability resulting from a disablement occurring on or after January 1, 1998, the minimum total benefit shall not be less than seventy-five thousand dollars (\$75,000).

(y) Each payment of monetary compensation due under this section shall be reduced or increased as provided in section 21 of this chapter.

SECTION 32. IC 22-3-7-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 20. (a) After disablement and during the period of claimed resulting disability or impairment, the employee, if so requested by the employee's employer or ordered by the worker's compensation board, shall submit to an examination at reasonable times and places by a duly qualified physician or surgeon designated and paid by the employer or by order of the board. The employee shall have the right to have present at any such examination any duly qualified physician or surgeon provided and paid for by the employee. No fact communicated to or otherwise learned by any physician or surgeon who may have attended or examined the employee, or who may have been present at any examination, shall be privileged either in the hearings provided for in this chapter, or in any action at law brought to recover damages against any employer who is subject to the compensation provisions of this chapter. If the employee refuses to submit to, or in any way obstructs the examinations, the employee's right to compensation and right to take or prosecute any proceedings under this chapter shall be suspended until the refusal or obstruction ceases. No compensation



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1 shall at any time be payable for the period of suspension unless in the
 2 opinion of the board, the circumstances justified the refusal or
 3 obstruction. The employee must be served with a notice setting forth
 4 the consequences of the refusal under this subsection. The notice must
 5 be in a form prescribed by the worker's compensation board.

6 (b) Any employer requesting an examination of any employee
 7 residing within Indiana shall pay, in advance of the time fixed for the
 8 examination, sufficient money to defray the necessary expenses of
 9 travel by the most convenient means to and from the place of
 10 examination, and the cost of meals and lodging necessary during the
 11 travel. If the method of travel is by automobile, the mileage rate to be
 12 paid by the employer shall be the rate as is then currently being paid by
 13 the state to its employees under the state travel policies and procedures
 14 established by the department of administration and approved by the
 15 state budget agency. If the examination or travel to or from the place of
 16 examination causes any loss of working time on the part of the
 17 employee, the employer shall reimburse the employee for the loss of
 18 wages upon the basis of such employee's average daily wage.

19 (c) When any employee injured in Indiana moves outside Indiana,
 20 the travel expense and the cost of meals and lodging necessary during
 21 the travel, payable under this section, shall be paid from the point in
 22 Indiana nearest to the employee's then residence to the place of
 23 examination. No travel and other expense shall be paid for any travel
 24 and other expense required outside Indiana.

25 (d) A duly qualified physician or surgeon provided and paid for by
 26 the employee may be present at an examination, if the employee so
 27 desires. In all cases, where the examination is made by a physician or
 28 surgeon engaged by the employer and the disabled or injured employee
 29 has no physician or surgeon present at the examination, it shall be the
 30 duty of the physician or surgeon making the examination to deliver to
 31 the injured employee, or the employee's representative, a statement in
 32 writing of the conditions evidenced by such examination. The
 33 statement shall disclose all facts that are reported by the physician or
 34 surgeon to the employer. This statement shall be furnished to the
 35 employee or the employee's representative as soon as practicable, but
 36 not later than thirty (30) days before the time the case is set for hearing.
 37 The statement may be submitted by either party as evidence by that
 38 physician or surgeon at a hearing before the worker's compensation
 39 board if the statement meets the requirements of subsection (f). If the
 40 physician or surgeon fails or refuses to furnish the employee or the
 41 employee's representative with such statement thirty (30) days before
 42 the hearing, then the statement may not be submitted as evidence, and

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the physician shall not be permitted to testify before the worker's compensation board as to any facts learned in the examination. All of the requirements of this subsection apply to all subsequent examinations requested by the employer.

(e) In all cases where an examination of an employee is made by a physician or surgeon engaged by the employee, and the employer has no physician or surgeon present at such examination, it shall be the duty of the physician or surgeon making the examination to deliver to the employer or the employer's representative a statement in writing of the conditions evidenced by such examination. The statement shall disclose all the facts that are reported by such physician or surgeon to the employee. The statement shall be furnished to the employer or the employer's representative as soon as practicable, but not later than thirty (30) days before the time the case is set for hearing. The statement may be submitted by either party as evidence by that physician or surgeon at a hearing before the worker's compensation board if the statement meets the requirements of subsection (f). If the physician or surgeon fails or refuses to furnish the employer or the employer's representative with such statement thirty (30) days before the hearing, then the statement may not be submitted as evidence, and the physician or surgeon shall not be permitted to testify before the worker's compensation board as to any facts learned in such examination. All of the requirements of this subsection apply to all subsequent examinations made by a physician or surgeon engaged by the employee.

(f) All statements of physicians or surgeons required by this section, whether those engaged by employee or employer, shall contain the following information:

- (1) The history of the injury, or claimed injury, as given by the patient.
- (2) The diagnosis of the physician or surgeon concerning the patient's physical or mental condition.
- (3) The opinion of the physician or surgeon concerning the causal relationship, if any, between the injury and the patient's physical or mental condition, including the physician's or surgeon's reasons for the opinion.
- (4) The opinion of the physician or surgeon concerning whether the injury or claimed injury resulted in a disability or impairment and, if so, the opinion of the physician or surgeon concerning the extent of the disability or impairment and the reasons for the opinion.
- (5) The original signature of the physician or surgeon.



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Notwithstanding any hearsay objection, the worker's compensation board shall admit into evidence a statement that meets the requirements of this subsection unless the statement is ruled inadmissible on other grounds.

(g) Delivery of any statement required by this section may be made to the attorney or agent of the employer or employee and such an action shall be construed as delivery to the employer or employee.

(h) Any party may object to a statement on the basis that the statement does not meet the requirements of subsection (e). The objecting party must give written notice to the party providing the statement and specify the basis for the objection. Notice of the objection must be given no later than twenty (20) days before the hearing. Failure to object as provided in this subsection precludes any further objection as to the adequacy of the statement under subsection (f).

(i) A representative of the employer or the employer's insurance carrier, including a case manager or a rehabilitation nurse, may not attend or be present during an employee's examination unless the representative complies with the following provisions:

(1) The representative may not attend or be present during the employee's examination unless both the employee and the examining medical personnel provide express written consent.

(2) Not later than the time at which the examination that the representative wishes to attend begins, the representative shall inform the employee and the examining medical personnel that the written consent described in subdivision (1) is required before the representative may attend or be present during the employee's examination.

(3) The representative may not jeopardize or threaten to jeopardize the payment of the employee's compensation under this article because the employee fails or refuses to complete the written consent described in subdivision (1).

(4) The representative may not cause the employee to believe that the employee's compensation under this article may be terminated or reduced because the employee fails or refuses to complete the written consent described in subdivision (1).

(5) The representative shall obtain the written consents required by subdivision (1) on forms prescribed by the worker's compensation board.

(j) The employer upon proper application, or the worker's compensation board, shall have the right in any case of death to require an autopsy at the expense of the party requesting the same. If, after a

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1 hearing, the board orders an autopsy and the autopsy is refused by the
 2 surviving spouse or next of kin, in this event any claim for
 3 compensation on account of the death shall be suspended and abated
 4 during the refusal. The surviving spouse or dependent must be served
 5 with a notice setting forth the consequences of the refusal under this
 6 subsection. The notice must be in a form prescribed by the worker's
 7 compensation board. No autopsy, except one performed by or on the
 8 authority or order of the coroner in discharge of the coroner's duties,
 9 shall be held in any case by any person without notice first being given
 10 to the surviving spouse or next of kin, if they reside in Indiana or their
 11 whereabouts can reasonably be ascertained, of the time and place
 12 thereof, and reasonable time and opportunity shall be given such
 13 surviving spouse or next of kin to have a representative or
 14 representatives present to witness same. However, if such notice is not
 15 given, all evidence obtained by the autopsy shall be suspended on
 16 motion duly made to the board.

17 SECTION 33. IC 22-3-7-21 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 21. (a) No
 19 compensation is allowed for any condition of physical or mental
 20 ill-being, disability, disablement, or death for which compensation is
 21 recoverable on account of accidental injury under chapters 2 through
 22 6 of this article.

23 **(b) No Each payment of monetary compensation is allowed under**
 24 **sections 16 and 19 of this chapter shall be reduced by twenty**
 25 **percent (20%) for any occupational disease or death knowingly**
 26 **willfully self-inflicted by the employee or due to:**

27 **(1) his intoxication;**

28 **(2) his commission of an offense; his knowing failure to use a**
 29 **safety appliance;**

30 **(3) his knowing willful failure to obey a reasonable written or**
 31 **printed rule of the employer which has been posted in a**
 32 **conspicuous position in the place of work; or**

33 **(4) his knowing willful failure to perform any statutory duty.**

34 The burden of proof is on the defendant.

35 **(c) Each payment of monetary compensation allowed under**
 36 **sections 16 and 19 of this chapter shall be reduced by fifteen**
 37 **percent (15%) for an occupational disease or a death resulting**
 38 **from an occupational disease due to the employee's intentional**
 39 **failure to use a safety appliance furnished by the employer.**

40 **(d) Each payment of monetary compensation allowed under**
 41 **sections 16 and 19 of this chapter shall be increased by thirty**
 42 **percent (30%) for a disease or death due to the employer's**

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1 **intentional failure to comply with a statute or an administrative**
 2 **regulation regarding safety methods or installation or maintenance**
 3 **of safety appliances.**

4 SECTION 34. IC 22-3-7-24 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 24. (a) The worker's
 6 compensation board may make rules not inconsistent with this chapter
 7 for carrying out the provisions of this chapter. Processes and
 8 procedures under this chapter shall be as summary and simple as
 9 reasonably may be. The board, or any member thereof, shall have the
 10 power, for the purpose of this chapter, to subpoena witnesses,
 11 administer or cause to have administered oaths, and to examine or
 12 cause to have examined such parts of the books and records of the
 13 parties to a proceeding as relate to questions in dispute. The county
 14 sheriff shall serve all subpoenas of the board **and magistrates**
 15 **appointed under IC 22-3-1-1** and shall receive the same fees as
 16 provided by law for like service in civil actions. Each witness who
 17 appears in obedience to such subpoena of the board shall receive for
 18 attendance the fees and mileage for witnesses in civil cases in the
 19 courts. The circuit or superior court shall, on application of the board
 20 or any member thereof, enforce by proper proceedings the attendance
 21 and testimony of witnesses and the production and examination of
 22 books, papers, and records.

23 (b) The fees of attorneys and physicians and charges of nurses and
 24 hospitals for services under this chapter shall be subject to the approval
 25 of the worker's compensation board. When any claimant for
 26 compensation is represented by an attorney in the prosecution of ~~his~~
 27 **the claimant's** claim, the board shall fix and state in the award, if
 28 compensation be awarded, the amount of the claimant's attorney's fees.
 29 The fee so fixed shall be binding upon both the claimant and ~~his~~ **the**
 30 **claimant's** attorney, and the employer shall pay to the attorney, out of
 31 the award, the fee so fixed, and the receipt of the attorney therefor shall
 32 fully acquit the employer for an equal portion of the award.

33 (c) Whenever the worker's compensation board shall determine
 34 upon hearing of a claim that the employer has acted in bad faith in
 35 adjusting and settling said award, or whenever the board shall
 36 determine upon hearing of a claim that the employer has not pursued
 37 the settlement of said claim with diligence, then the board shall, if
 38 compensation be awarded, fix the amount of the claimant's attorney's
 39 fees and such attorney's fees shall be paid to the attorney and shall not
 40 be charged against the award to the claimant. Such fees as are fixed and
 41 awarded on account of a lack of diligence or because of bad faith on the
 42 part of the employer shall not be less than one hundred fifty dollars



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1 (\$150).

2 (d) The worker's compensation board may withhold the approval of
3 the fees of the attending physician in any case until ~~he shall file the~~
4 **attending physician files** a report with the board on the form
5 prescribed by such board.

6 SECTION 35. IC 22-3-7-27, AS AMENDED BY P.L.235-1999,
7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2003]: Sec. 27. (a) If the employer and the employee or the
9 employee's dependents disagree in regard to the compensation payable
10 under this chapter, or, if they have reached such an agreement, which
11 has been signed by them, filed with and approved by the worker's
12 compensation board, and afterward disagree as to the continuance of
13 payments under such agreement, or as to the period for which payments
14 shall be made, or as to the amount to be paid, because of a change in
15 conditions since the making of such agreement, either party may then
16 make an application to the board for the determination of the matters
17 in dispute. When compensation which is payable in accordance with an
18 award or by agreement approved by the board is ordered paid in a lump
19 sum by the board, no review shall be had as in this subsection
20 mentioned.

21 (b) The application making claim for compensation filed with the
22 worker's compensation board shall state the following:

23 (1) The approximate date of the last day of the last exposure and
24 the approximate date of the disablement.

25 (2) The general nature and character of the illness or disease
26 claimed.

27 (3) The name and address of the employer by whom employed on
28 the last day of the last exposure, and if employed by any other
29 employer after such last exposure and before disablement, the
30 name and address of such other employer or employers.

31 (4) In case of death, the date and place of death.

32 (5) Amendments to applications making claim for compensation
33 which relate to the same disablement or disablement resulting in
34 death originally claimed upon may be allowed by the board in its
35 discretion, and, in the exercise of such discretion, it may, in
36 proper cases, order a trial de novo. Such amendment shall relate
37 back to the date of the filing of the original application so
38 amended.

39 (c) Upon the filing of such application, the board shall set the date
40 of hearing, which shall be as early as practicable, and shall notify the
41 parties, in the manner prescribed by the board, of the time and place of
42 hearing. The hearing of all claims for compensation on account of

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1 occupational disease shall be held in the county in which the last
 2 exposure occurred or in any adjoining county, except when the parties
 3 consent to a hearing elsewhere. Claims assigned to an individual board
 4 member that are considered to be of an emergency nature by that board
 5 member, may be heard in any county within the board member's
 6 jurisdiction.

7 (d) The board by any or all of its members **or by magistrates**
 8 **appointed under IC 22-3-1-1** shall hear the parties at issue, their
 9 representatives, and witnesses, and shall determine the dispute in a
 10 summary manner. The award shall be filed with the record of
 11 proceedings, and a copy thereof shall immediately be sent by registered
 12 mail to each of the parties in dispute.

13 (e) If an application for review is made to the board within thirty
 14 (30) days from the date of the award made by less than all the
 15 members, the full board, if the first hearing was not held before the full
 16 board, shall review the evidence, or, if deemed advisable, hear the
 17 parties at issue, their representatives, and witnesses as soon as
 18 practicable, and shall make an award and file the same with the finding
 19 of the facts on which it is based and send a copy thereof to each of the
 20 parties in dispute, in like manner as specified in subsection (d).

21 (f) An award of the board by less than all of the members as
 22 provided in this section, if not reviewed as provided in this section,
 23 shall be final and conclusive. An award by the full board shall be
 24 conclusive and binding unless either party to the dispute, within thirty
 25 (30) days after receiving a copy of such award, appeals to the court of
 26 appeals under the same terms and conditions as govern appeals in
 27 ordinary civil actions. The court of appeals shall have jurisdiction to
 28 review all questions of law and of fact. The board, of its own motion,
 29 may certify questions of law to the court of appeals for its decision and
 30 determination. An assignment of errors that the award of the full board
 31 is contrary to law shall be sufficient to present both the sufficiency of
 32 the facts found to sustain the award and the sufficiency of the evidence
 33 to sustain the finding of facts. All such appeals and certified questions
 34 of law shall be submitted upon the date filed in the court of appeals,
 35 shall be advanced upon the docket of the court, and shall be determined
 36 at the earliest practicable date, without any extensions of time for filing
 37 briefs. An award of the full board affirmed on appeal, by the employer,
 38 shall be increased thereby five percent (5%), and by order of the court
 39 may be increased ten percent (10%).

40 (g) Upon order of the worker's compensation board made after five
 41 (5) days notice is given to the opposite party, any party in interest may
 42 file in the circuit or superior court of the county in which the

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1 disablement occurred a certified copy of the memorandum of
 2 agreement, approved by the board, or of an order or decision of the
 3 board, or of an award of the full board unappealed from, or of an award
 4 of the full board affirmed upon an appeal, whereupon the court shall
 5 render judgment in accordance therewith and notify the parties. Such
 6 judgment shall have the same effect and all proceedings in relation
 7 thereto shall thereafter be the same as though such judgment has been
 8 rendered in a suit duly heard and determined by the court. Any such
 9 judgment of such circuit or superior court, unappealed from or affirmed
 10 on appeal or modified in obedience to the mandate of the court of
 11 appeals, shall be modified to conform to any decision of the industrial
 12 board ending, diminishing, or increasing any weekly payment under the
 13 provisions of subsection (i) upon the presentation to it of a certified
 14 copy of such decision.

15 (h) In all proceedings before the worker's compensation board or in
 16 a court under the compensation provisions of this chapter, the costs
 17 shall be awarded and taxed as provided by law in ordinary civil actions
 18 in the circuit court. **Prejudgment interest shall be awarded at a rate**
 19 **of ten percent (10%) per year, accruing from the date of filing of**
 20 **the application for adjustment of claim as determined under**
 21 **subsection (a).**

22 (i) The power and jurisdiction of the worker's compensation board
 23 over each case shall be continuing, and, from time to time, it may, upon
 24 its own motion or upon the application of either party on account of a
 25 change in conditions, make such modification or change in the award
 26 ending, lessening, continuing, or extending the payments previously
 27 awarded, either by agreement or upon hearing, as it may deem just,
 28 subject to the maximum and minimum provided for in this chapter.
 29 When compensation which is payable in accordance with an award or
 30 settlement contract approved by the board is ordered paid in a lump
 31 sum by the board, no review shall be had as in this subsection
 32 mentioned. Upon making any such change, the board shall immediately
 33 send to each of the parties a copy of the modified award. No such
 34 modification shall affect the previous award as to any money paid
 35 thereunder. The board shall not make any such modification upon its
 36 own motion, nor shall any application therefor be filed by either party
 37 after the expiration of two (2) years from the last day for which
 38 compensation was paid under the original award made either by
 39 agreement or upon hearing. ~~except that applications for increased~~
 40 ~~permanent partial impairment are barred unless filed within one (1)~~
 41 ~~year from the last day for which compensation was paid.~~ The board
 42 may at any time correct any clerical error in any finding or award.



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(j) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified physician or surgeon to make any necessary medical examination of the employee and to testify in respect thereto. Such physician or surgeon shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such physician or surgeon shall be paid by the state only on special order of the board or a member thereof.

(k) The board or any member thereof may, upon the application of either party or upon its own motion, appoint a disinterested and duly qualified industrial hygienist, industrial engineer, industrial physician, or chemist to make any necessary investigation of the occupation in which the employee alleges that ~~he~~ **the employee** was last exposed to the hazards of the occupational disease claimed upon, and testify with respect to the occupational disease health hazards found by such person or persons to exist in such occupation. Such person or persons shall be allowed traveling expenses and a reasonable fee, to be fixed by the board. The fees and expenses of such persons shall be paid by the state, only on special order of the board or a member thereof.

(l) Whenever any claimant misconceives the claimant's remedy and files an application for adjustment of a claim under IC 22-3-2 through IC 22-3-6 and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury or death which was the basis for such application should properly have been made under the provisions of this chapter, then the application so filed under IC 22-3-2 through IC 22-3-6 may be amended in form or substance or both to assert a claim for such disability or death under the provisions of this chapter, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the worker's compensation board when deemed necessary. Nothing in this section contained shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice or time for filing a claim, but notice of filing of a claim, if given or done, shall be deemed to be a notice or filing of a claim under the provisions of this chapter if given or done within the time required in this chapter.

SECTION 36. IC 22-4-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. **(a) Except as provided in subsections (b) and (c),** "base period" means the first four (4) of the last five (5) completed calendar quarters immediately

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preceding the first day of an individual's benefit period. ~~Provided,~~
However, ~~That~~ for a claim computed in accordance with IC 1971,
22-4-22, the base period shall be the base period as outlined in the
paying state's law.

(b) Effective January 1, 2005, "base period" also includes, in the case of an individual who does not have sufficient wages in the base period as set forth in subsection (a), the last four (4) completed calendar quarters immediately preceding the first day of the benefit year of the individual if the period qualifies the individual for benefits under this chapter. Wages that fall within the base period of claims established under this subsection are not available for reuse in qualifying for a subsequent benefit year.

(c) In the case of a combined wage claim under an arrangement approved by the United States Secretary of Labor, the base period is the period applicable under the unemployment compensation law of the paying state.

(d) The department shall adopt rules under IC 4-22-2 to obtain wage information if wage information for the most recent quarter of the base period as set forth under subsection (b) is not available to the department from regular quarterly reports of wage information that is systemically accessible.

SECTION 37. IC 22-4-2-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.5. **(a)** Notwithstanding section 12 of this chapter, for an individual who during the "base period" as defined in that section has received worker's compensation benefits under IC 22-3-3 for a period of fifty-two (52) weeks or less, and as a result has not earned sufficient wage credits to meet the requirements of IC 22-4-14-5, "base period" means the first four (4) of the last five (5) completed calendar quarters immediately preceding the last day that the individual was able to work, as a result of the individual's injury.

(b) The provisions of section 12(b), 12(c), and 12(d) of this chapter apply beginning January 1, 2005.

SECTION 38. IC 22-4-2-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 22. "Valid claim" means a claim filed by an individual who has established qualifying wage credits and who is totally, partially, or part-totally unemployed. ~~Provided,~~ No individual in a benefit period may file a valid claim for a waiting period, **if applicable**, or benefit period rights with respect to any period subsequent to the expiration of such benefit period.

SECTION 39. IC 22-4-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 29. "Insured



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unemployment" means unemployment during a given week for which waiting period credit, **if applicable**, or benefits are claimed under the state employment security program, the unemployment compensation for federal employees program, the unemployment compensation for veterans program, or the railroad unemployment insurance program.

SECTION 40. IC 22-4-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars (\$7,000), has been paid in a calendar year to an individual by an employer or ~~his~~ **the employer's** predecessor with respect to employment during any calendar year ~~subsequent to beginning after~~ **beginning after** December 31, 1982, **and before January 1, 2004; and**

(B) **nine thousand dollars (\$9,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year beginning after December 31, 2003;**

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an

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1 employer for insurance or annuities or into a fund to provide for
 2 any such payment) made to, or on behalf of, an individual or any
 3 of his dependents under a plan or system established by an
 4 employer which makes provision generally for individuals
 5 performing service for it (or for such individuals generally and
 6 their dependents) or for a class or classes of such individuals (or
 7 for a class or classes of such individuals and their dependents) on
 8 account of:

9 (A) retirement;

10 (B) sickness or accident disability;

11 (C) medical or hospitalization expenses in connection with
 12 sickness or accident disability; or

13 (D) death.

14 (3) The amount of any payment made by an employer to an
 15 individual performing service for it (including any amount paid
 16 by an employer for insurance or annuities or into a fund to
 17 provide for any such payment) on account of retirement.

18 (4) The amount of any payment on account of sickness or accident
 19 disability, or medical or hospitalization expenses in connection
 20 with sickness or accident disability made by an employer to, or on
 21 behalf of, an individual performing services for it and after the
 22 expiration of six (6) calendar months following the last calendar
 23 month in which the individual performed services for such
 24 employer.

25 (5) The amount of any payment made by an employer to, or on
 26 behalf of, an individual performing services for it or to his
 27 beneficiary:

28 (A) from or to a trust exempt from tax under Section 401(a) of
 29 the Internal Revenue Code at the time of such payment unless
 30 such payment is made to an individual performing services for
 31 the trust as remuneration for such services and not as a
 32 beneficiary of the trust; or

33 (B) under or to an annuity plan which, at the time of such
 34 payments, meets the requirements of Section 401(a)(3),
 35 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue
 36 Code.

37 (6) Remuneration paid in any medium other than cash to an
 38 individual for service not in the course of the employer's trade or
 39 business.

40 (7) The amount of any payment (other than vacation or sick pay)
 41 made to an individual after the month in which he attains the age
 42 of sixty-five (65) if he did not perform services for the employer

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1 in the period for which such payment is made.

2 (8) The payment by an employer (without deduction from the
3 remuneration of the employee) of the tax imposed upon an
4 employee under Sections 3101 et seq. of the Internal Revenue
5 Code (Federal Insurance Contributions Act).

6 SECTION 41. IC 22-4-4-3, AS AMENDED BY P.L.30-2000,
7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2003]: Sec. 3. (a) For calendar quarters beginning on and after
9 April 1, 1979, and before April 1, 1984, "wage credits" means
10 remuneration paid for employment by an employer to an individual.
11 Wage credits may not exceed three thousand six hundred sixty-six
12 dollars (\$3,666) and may not include payments specified in section
13 2(b) of this chapter.

14 (b) For calendar quarters beginning on and after April 1, 1984, and
15 before April 1, 1985, "wage credits" means remuneration paid for
16 employment by an employer to an individual. Wage credits may not
17 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
18 may not include payments specified in section 2(b) of this chapter.

19 (c) For calendar quarters beginning on and after April 1, 1985, and
20 before January 1, 1991, "wage credits" means remuneration paid for
21 employment by an employer to an individual. Wage credits may not
22 exceed four thousand one hundred eighty-six dollars (\$4,186) and may
23 not include payments specified in section 2(b) of this chapter.

24 (d) For calendar quarters beginning on and after January 1, 1991,
25 and before July 1, 1995, "wage credits" means remuneration paid for
26 employment by an employer to an individual. Wage credits may not
27 exceed four thousand eight hundred ten dollars (\$4,810) and may not
28 include payments specified in section 2(b) of this chapter.

29 (e) For calendar quarters beginning on and after July 1, 1995, and
30 before July 1, 1997, "wage credits" means remuneration paid for
31 employment by an employer to an individual and remuneration
32 received as tips or gratuities in accordance with Sections 3102 and
33 3301 et seq. of the Internal Revenue Code. Wage credits may not
34 exceed five thousand dollars (\$5,000) and may not include payments
35 specified in section 2(b) of this chapter.

36 (f) For calendar quarters beginning on and after July 1, 1997, and
37 before July 1, 1998, "wage credits" means remuneration paid for
38 employment by an employer to an individual and remuneration
39 received as tips or gratuities in accordance with Sections 3102 and
40 3301 et seq. of the Internal Revenue Code. Wage credits may not
41 exceed five thousand four hundred dollars (\$5,400) and may not
42 include payments specified in section 2(b) of this chapter.

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(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars (\$5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, and before July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars (\$5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, and before July 1, 2001, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand seven hundred dollars (\$6,700) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(j) For calendar quarters beginning on and after July 1, 2001, and before July 1, 2002, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand three hundred dollars (\$7,300) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(k) For calendar quarters beginning on and after July 1, 2002, **and before July 1, 2003**, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed seven thousand nine hundred dollars (\$7,900) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(l) For calendar quarters beginning on and after July 1, 2003, and before July 1, 2004, "wage credits" means remuneration paid

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for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand four hundred thirty-three dollars (\$8,433) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(m) For calendar quarters beginning on and after July 1, 2004, and before July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed eight thousand nine hundred sixty-six dollars (\$8,966) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(n) For calendar quarters beginning on and after July 1, 2005, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3102 and 3301 et seq. of the Internal Revenue Code. Wage credits may not exceed nine thousand five hundred dollars (\$9,500) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

SECTION 42. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) After making the deposit required by subsection (b), the department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by IC 22-4-24.5-1.

(b) After June 30, 2003, unless the board approves a lesser amount, the department annually shall deposit the first four hundred fifty thousand dollars (\$450,000) in skills 2016 training assessments paid to the department under this chapter in the special employment and training services fund established by IC 22-4-25-1 for the training and counseling assistance described in IC 22-4-25-1(f).

SECTION 43. IC 22-4-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) This subsection applies before January 1, 2005. As a condition precedent to the payment of benefits to an individual with respect to any week such individual shall be required to serve a waiting period of one (1) week in which he has been totally, partially or part-totally unemployed and with respect to which he has received no benefits, but during which he

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1 was eligible for benefits in all other respects and was not otherwise
 2 ineligible for benefits under any provisions of this article. Such waiting
 3 period shall be a week in the individual's benefit period and during
 4 such week such individual shall be physically and mentally able to
 5 work and available for work. ~~No An~~ individual in a benefit period may
 6 **not** file for waiting period or benefit period rights with respect to any
 7 subsequent period. ~~Provided, However, That~~ no waiting period shall be
 8 required as a prerequisite for drawing extended benefits.

9 **(b) This subsection applies after December 31, 2004. An**
 10 **individual in a benefit period may not file for benefit period rights**
 11 **for any subsequent period.**

12 SECTION 44. IC 22-4-14-11 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) **Except for**
 14 **benefits due under IC 22-4-15-3.5**, for weeks of unemployment
 15 occurring after October 1, 1983, benefits may be paid to an individual
 16 on the basis of service performed in seasonal employment (as defined
 17 in IC 22-4-8-4) only if the claim is filed within the operating period of
 18 the seasonal employment. If the claim is filed outside the operating
 19 period of the seasonal employment, benefits may be paid on the basis
 20 of nonseasonal wages only.

21 (b) An employer shall file an application for a seasonal
 22 determination (as defined by IC 22-4-7-3) with the department of
 23 workforce development. A seasonal determination shall be made by the
 24 department within ninety (90) days after the filing of such an
 25 application. Until a seasonal determination by the department has been
 26 made in accordance with this section, no employer or worker may be
 27 considered seasonal.

28 (c) Any interested party may file an appeal regarding a seasonal
 29 determination within fifteen (15) calendar days after the determination
 30 by the department and obtain review of the determination in
 31 accordance with IC 22-4-32.

32 (d) Whenever an employer is determined to be a seasonal employer,
 33 the following provisions apply:

34 (1) The seasonal determination becomes effective the first day of
 35 the calendar quarter commencing after the date of the seasonal
 36 determination.

37 (2) The seasonal determination does not affect any benefit rights
 38 of seasonal workers with respect to employment before the
 39 effective date of the seasonal determination.

40 (e) If a seasonal employer, after the date of its seasonal
 41 determination, operates its business or its seasonal operation during a
 42 period or periods of twenty-six (26) weeks or more in a calendar year,

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the employer shall be determined by the department to have lost its seasonal status with respect to that business or operation effective at the end of the then current calendar quarter. The redetermination shall be reported in writing to the employer. Any interested party may file an appeal within fifteen (15) calendar days after the redetermination by the department and obtain review of the redetermination in accordance with IC 22-4-32.

(f) Seasonal employers shall keep account of wages paid to seasonal workers within the seasonal period as determined by the department and shall report these wages on a special seasonal quarterly report form provided by the department.

(g) The board shall adopt rules applicable to seasonal employers for determining their normal seasonal period or periods.

SECTION 45. IC 22-4-15-1, AS AMENDED BY P.L.290-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) With respect to benefit periods established on and after July 6, 1980, an individual who has voluntarily left the individual's most recent employment without good cause in connection with the work or who was discharged from the individual's most recent employment for just cause is ineligible for waiting period, **if applicable**, or benefit rights for the week in which the disqualifying separation occurred and until the individual has earned remuneration in employment equal to or exceeding the weekly benefit amount of the individual's claim in each of eight (8) weeks. If the qualification amount has not been earned at the expiration of an individual's benefit period, the unearned amount shall be carried forward to an extended benefit period or to the benefit period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered

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1 reasonable expectation of continued covered employment and
 2 betterment of wages or working conditions; and thereafter was
 3 employed on said job;

4 (B) having been simultaneously employed by two (2)
 5 employers, the individual leaves one (1) such employer
 6 voluntarily without good cause in connection with the work
 7 but remains in employment with the second employer with a
 8 reasonable expectation of continued employment; or

9 (C) the individual left to accept recall made by a base period
 10 employer.

11 (2) An individual whose unemployment is the result of medically
 12 substantiated physical disability and who is involuntarily
 13 unemployed after having made reasonable efforts to maintain the
 14 employment relationship shall not be subject to disqualification
 15 under this section for such separation.

16 (3) An individual who left work to enter the armed forces of the
 17 United States shall not be subject to disqualification under this
 18 section for such leaving of work.

19 (4) An individual whose employment is terminated under the
 20 compulsory retirement provision of a collective bargaining
 21 agreement to which the employer is a party, or under any other
 22 plan, system, or program, public or private, providing for
 23 compulsory retirement and who is otherwise eligible shall not be
 24 deemed to have left the individual's work voluntarily without
 25 good cause in connection with the work. However, if such
 26 individual subsequently becomes reemployed and thereafter
 27 voluntarily leaves work without good cause in connection with the
 28 work, the individual shall be deemed ineligible as outlined in this
 29 section.

30 (5) An otherwise eligible individual shall not be denied benefits
 31 for any week because the individual is in training approved under
 32 Section 236(a)(1) of the Trade Act of 1974, nor shall the
 33 individual be denied benefits by reason of leaving work to enter
 34 such training, provided the work left is not suitable employment,
 35 or because of the application to any week in training of provisions
 36 in this law (or any applicable federal unemployment
 37 compensation law), relating to availability for work, active search
 38 for work, or refusal to accept work. For purposes of this
 39 subdivision, the term "suitable employment" means with respect
 40 to an individual, work of a substantially equal or higher skill level
 41 than the individual's past adversely affected employment (as
 42 defined for purposes of the Trade Act of 1974), and wages for

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such work at not less than eighty percent (80%) of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974.

(6) An individual is not subject to disqualification because of separation from the individual's employment if:

(A) the employment was outside the individual's labor market;

(B) the individual left to accept previously secured full-time work with an employer in the individual's labor market; and

(C) the individual actually became employed with the employer in the individual's labor market.

(7) An individual who, but for the voluntary separation to move to another labor market to join a spouse who had moved to that labor market, shall not be disqualified for that voluntary separation, if the individual is otherwise eligible for benefits. Benefits paid to the spouse whose eligibility is established under this subdivision shall not be charged against the employer from whom the spouse voluntarily separated.

(8) An individual who is an affected employee (as defined in IC 22-4-43-1(1)) and is subject to the work sharing unemployment insurance program under IC 22-4-43 is not disqualified for participating in the work sharing unemployment insurance program.

(9) The following provisions apply to an individual employed by a temporary employment agency (as defined in IC 22-5-6-7):

(A) An individual who last was employed by a temporary employment agency is not considered to have quit employment voluntarily without good cause if the individual did not contact the temporary employment agency for reassignment upon completion of the assignment.

(B) When an individual who last was employed by a temporary employment agency:

(i) completes an assignment with a third party;

(ii) has indicated availability to accept a new assignment with a third party; and

(iii) is not offered a new assignment that is within the labor market and that has substantially equivalent compensation, benefits, and working conditions;

the individual is eligible for benefits, subject to the waiting period as set forth in IC 22-4-14-4.

(C) The failure of the individual to contact the temporary

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employment agency is not considered a disqualification if the temporary employment firm has violated any provision of state or federal law protecting employees of temporary employment with respect to the individual.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 46. IC 22-4-15-2, AS AMENDED BY P.L.290-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) With respect to benefit periods established on and after July 3, 1977, an individual is ineligible for waiting period, **if applicable**, or benefit rights, or extended benefit rights, if the department finds that, being totally, partially, or part-totally unemployed at the time when the work offer is effective or when the individual is directed to apply for work, the individual fails without good cause:

- (1) to apply for available, suitable work when directed by the commissioner, the deputy, or an authorized representative of the department of workforce development or the United States training and employment service;
- (2) to accept, at any time after the individual is notified of a

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1 separation, suitable work when found for and offered to the
 2 individual by the commissioner, the deputy, or an authorized
 3 representative of the department of workforce development or the
 4 United States training and employment service, or an employment
 5 unit; or

6 (3) to return to the individual's customary self-employment when
 7 directed by the commissioner or the deputy.

8 (b) With respect to benefit periods established on and after July 6,
 9 1980, the ineligibility shall continue for the week in which the failure
 10 occurs and until the individual earns remuneration in employment
 11 equal to or exceeding the weekly benefit amount of the individual's
 12 claim in each of eight (8) weeks. If the qualification amount has not
 13 been earned at the expiration of an individual's benefit period, the
 14 unearned amount shall be carried forward to an extended benefit period
 15 or to the benefit period of a subsequent claim.

16 (c) With respect to extended benefit periods established on and after
 17 July 5, 1981, the ineligibility shall continue for the week in which the
 18 failure occurs and until the individual earns remuneration in
 19 employment equal to or exceeding the weekly benefit amount of the
 20 individual's claim in each of four (4) weeks.

21 (d) If an individual failed to apply for or accept suitable work as
 22 outlined in this section, the maximum benefit amount of the
 23 individual's current claim, as initially determined, shall be reduced by
 24 twenty-five percent (25%). If twenty-five percent (25%) of the
 25 maximum benefit amount is not an even dollar amount, the amount of
 26 such reduction shall be raised to the next higher even dollar amount.
 27 The maximum benefit amount of the individual's current claim may not
 28 be reduced by more than twenty-five percent (25%) during any benefit
 29 period or extended benefit period.

30 (e) In determining whether or not any such work is suitable for an
 31 individual, the department shall consider:

- 32 (1) the degree of risk involved to such individual's health, safety,
 33 and morals;
- 34 (2) the individual's physical fitness and prior training and
 35 experience;
- 36 (3) the individual's length of unemployment and prospects for
 37 securing local work in the individual's customary occupation; and
- 38 (4) the distance of the available work from the individual's
 39 residence.

40 However, work under substantially the same terms and conditions
 41 under which the individual was employed by a base-period employer,
 42 which is within the individual's prior training and experience and

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1 physical capacity to perform, shall be considered to be suitable work
 2 unless the claimant has made a bona fide change in residence which
 3 makes such offered work unsuitable to the individual because of the
 4 distance involved.

5 (f) Notwithstanding any other provisions of this article, no work
 6 shall be considered suitable and benefits shall not be denied under this
 7 article to any otherwise eligible individual for refusing to accept new
 8 work under any of the following conditions:

9 (1) If the position offered is vacant due directly to a strike,
 10 lockout, or other labor dispute.

11 (2) If the remuneration, hours, or other conditions of the work
 12 offered are substantially less favorable to the individual than
 13 those prevailing for similar work in the locality.

14 (3) If as a condition of being employed the individual would be
 15 required to join a company union or to resign from or refrain from
 16 joining a bona fide labor organization.

17 (4) If as a condition of being employed the individual would be
 18 required to discontinue training into which the individual had
 19 entered with the approval of the department.

20 (g) Notwithstanding subsection (e), with respect to extended benefit
 21 periods established on and after July 5, 1981, "suitable work" means
 22 any work which is within an individual's capabilities. However, if the
 23 individual furnishes evidence satisfactory to the department that the
 24 individual's prospects for obtaining work in the individual's customary
 25 occupation within a reasonably short period are good, the
 26 determination of whether any work is suitable work shall be made as
 27 provided in subsection (e).

28 (h) With respect to extended benefit periods established on and after
 29 July 5, 1981, no work shall be considered suitable and extended
 30 benefits shall not be denied under this article to any otherwise eligible
 31 individual for refusing to accept new work under any of the following
 32 conditions:

33 (1) If the gross average weekly remuneration payable to the
 34 individual for the position would not exceed the sum of:

35 (A) the individual's average weekly benefit amount for the
 36 individual's benefit year; plus

37 (B) the amount (if any) of supplemental unemployment
 38 compensation benefits (as defined in Section 501(c)(17)(D) of
 39 the Internal Revenue Code) payable to the individual for such
 40 week.

41 (2) If the position was not offered to the individual in writing or
 42 was not listed with the department of workforce development.

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(3) If such failure would not result in a denial of compensation under the provisions of this article to the extent that such provisions are not inconsistent with the applicable federal law.

(4) If the position pays wages less than the higher of:

(A) the minimum wage provided by 29 U.S.C. 206(a)(1) (The Fair Labor Standards Act of 1938), without regard to any exemption; or

(B) the state minimum wage (IC 22-2-2).

(i) The department of workforce development shall refer individuals eligible for extended benefits to any suitable work (as defined in subsection (g)) to which subsection (h) would not apply.

SECTION 47. IC 22-4-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a) Except as provided in section 3.5 of this chapter,** an individual shall be ineligible for waiting period, **if applicable,** or benefit rights for any week with respect to which ~~his~~ **the individual's** total or partial or part-total unemployment is due to a labor dispute at the factory, establishment, or other premises at which ~~he~~ **the individual** was last employed.

(b) This section shall not apply to an individual if:

(1) ~~he~~ the individual has terminated ~~his~~ **the individual's** employment, or ~~his~~ **the individual's** employment has been terminated, with the employer involved in the labor dispute; ~~or if~~

(2) the labor dispute which caused ~~his~~ **the individual's** unemployment has terminated and any period necessary to resume normal activities at ~~his~~ **the individual's** place of employment has elapsed; or if

(3) all of the following conditions exist: ~~He~~

(A) The individual is not participating in or financing or directly interested in the labor dispute which caused ~~his~~ **the individual's** unemployment. ~~and he~~

(B) The individual does not belong to a grade or class of workers of which, immediately before the commencement of ~~his~~ **the individual's** unemployment, there were members employed at the same premises as ~~he~~; **the individual**, any of whom are participating in or financing or directly interested in the dispute. ~~and he~~

(C) The individual has not voluntarily stopped working, other than at the direction of ~~his~~ **the individual's** employer, in sympathy with employees in some other establishment or factory in which a labor dispute is in progress.

(c) If in any case separate branches of work which are commonly

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1 conducted as separate businesses in separate premises are conducted
 2 in separate departments of the same premises, each such department
 3 shall, for the purpose of this section, be deemed to be a separate
 4 factory, establishment, or other premises.

5 (d) Upon request of any claimant or employer involved in an issue
 6 arising under this section, the deputy shall, and in any other case the
 7 deputy may, refer claims of individuals with respect to whom there is
 8 an issue of the application of this section to an administrative law judge
 9 who shall make the initial determination with respect thereto, in
 10 accordance with the procedure in IC 22-4-17-3.

11 (e) Notwithstanding any other provisions of this article, an
 12 individual shall not be ineligible for waiting period, **if applicable**, or
 13 benefit rights under this section solely by reason of ~~his~~ **the individual's**
 14 failure or refusal to apply for or to accept recall to work or
 15 reemployment with an employer during the continuance of a labor
 16 dispute at the factory, establishment, or other premises of the employer,
 17 if the individual's last separation from the employer occurred prior to
 18 the start of the labor dispute and was permanent or for an indefinite
 19 period.

20 SECTION 48. IC 22-4-15-3.5 IS ADDED TO THE INDIANA
 21 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2003]: **Sec. 3.5. (a) As used in this section,**
 23 **"shuts down operations" means the termination of business by the**
 24 **employer, whether due to:**

25 (1) **a filing of a petition under 11 U.S.C. 501, 11 U.S.C. 1201,**
 26 **or 11 U.S.C. 1301; or**

27 (2) **cessation of business by the employer, whether or not**
 28 **dissolution procedures under IC 23-1 have been filed.**

29 (b) **If the total or partial or part-total unemployment of an**
 30 **individual due to a labor dispute at the factory, establishment, or**
 31 **other premises at which the individual was last employed ends**
 32 **because the employer shuts down business and the individual**
 33 **continues to be totally, partially, or part-totally unemployed, the**
 34 **individual is eligible for waiting period, if applicable, or benefit**
 35 **rights retroactive to the date of the individual's unemployment due**
 36 **to the labor dispute.**

37 (c) **Any benefits provided by a labor union or other associated**
 38 **fund to the individual during the period of the labor dispute, other**
 39 **than those provided under IC 22-4-5-1(a)(10), may not be**
 40 **considered remuneration for purposes of computing deductible**
 41 **income.**

42 (d) **Any retroactive benefits due to an individual under this**

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1 section shall be limited to the maximum benefit periods provided
2 in IC 22-4-12-4.

3 (e) Notwithstanding IC 22-4-14-11, benefits may be paid on the
4 basis of service performed in seasonal employment to an individual
5 who may be due retroactive benefits under this section who:

6 (1) has engaged in seasonal employment; and

7 (2) has filed a claim for benefits outside the operating period
8 of seasonal employment.

9 (f) IC 22-4-14-3 applies only after the date the employer shuts
10 down business.

11 (g) The department may use the procedures prescribed by
12 IC 22-4-17-1 for the taking of claims in the instance of mass layoffs
13 for claims made under this section.

14 SECTION 49. IC 22-4-15-4, AS AMENDED BY P.L.290-2001,
15 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2003]: Sec. 4. (a) An individual ~~shall be~~ is ineligible for
17 waiting period, **if applicable**, or benefit rights for any week with
18 respect to which the individual receives, is receiving, or has received
19 payments equal to or exceeding ~~his~~ **the individual's** weekly benefit
20 amount in the form of:

21 (1) deductible income as defined and applied in IC 22-4-5-1 and
22 IC 22-4-5-2; or

23 (2) any pension, retirement, or annuity payments, under any plan
24 of an employer whereby the employer contributes a portion or all
25 of the money. This disqualification shall apply only if some or all
26 of the benefits otherwise payable are chargeable to the experience
27 or reimbursable account of ~~such the~~ employer, or would have
28 been chargeable except for the application of this chapter. ~~For the~~
29 purposes of this subdivision, ~~(2)~~, federal old age, survivors, and
30 disability insurance benefits are not considered payments under
31 a plan of an employer whereby the employer maintains the plan
32 or contributes a portion or all of the money to the extent required
33 by federal law.

34 (b) If the payments described in subsection (a) are less than ~~his~~ **the**
35 **individual's** weekly benefit amount, an otherwise eligible individual
36 ~~shall be~~ is not ineligible and shall be entitled to receive for ~~such the~~
37 week benefits reduced by the amount of such payments.

38 (c) This section does not preclude an individual from delaying a
39 claim to pension, retirement, or annuity payments until the individual
40 has received the benefits to which the individual would otherwise be
41 eligible under this chapter. Weekly benefits received before the date
42 the individual elects to retire shall not be reduced by any pension,

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1 retirement, or annuity payments received on or after the date the
2 individual elects to retire.

3 SECTION 50. IC 22-4-15-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Except as provided
5 in IC ~~1971~~, 22-4-22, an individual ~~shall be~~ **is** ineligible for waiting
6 period, **if applicable**, or benefit rights for any week with respect to
7 which or a part of which ~~he the individual~~ receives, is receiving, has
8 received, or is seeking unemployment benefits under an unemployment
9 compensation law of another state or of the United States. ~~Provided,~~
10 ~~that~~ **However**, this disqualification shall not apply if the appropriate
11 agency of such other state or of the United States finally determines
12 that ~~he the individual~~ is not entitled to such employment benefits,
13 including benefits to federal civilian employees and ex-servicemen
14 pursuant to 5 U.S.C. Chapter 85.

15 SECTION 51. IC 22-4-16-1 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. Notwithstanding any
17 other provisions of this article, if an individual knowingly fails to
18 disclose amounts earned during any week in ~~his the individual's~~
19 waiting period, **if applicable**, benefit period, or extended benefit period
20 with respect to which benefit rights or extended benefit rights are
21 claimed, or knowingly fails to disclose or has falsified as to any fact
22 ~~which that~~ would have disqualified ~~him the individual~~ or rendered
23 ~~him the individual~~ ineligible for benefits or extended benefits or would
24 have reduced ~~his the individual's~~ benefit rights or extended benefit
25 rights during such a week, all of ~~his the individual's~~ wage credits
26 established prior to the week of the falsification or failure to disclose
27 shall be cancelled, and any benefits or extended benefits ~~which that~~
28 might otherwise have become payable to ~~him the individual~~ and any
29 benefit rights or extended benefit rights based upon those wage credits
30 shall be forfeited.

31 SECTION 52. IC 22-4-17-2, AS AMENDED BY P.L.290-2001,
32 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the
34 department shall promptly make a determination of ~~his the~~
35 **individual's** status as an insured worker in a form prescribed by the
36 board. A written notice of the determination of insured status shall be
37 furnished ~~him to the individual~~ promptly. Each such determination
38 shall be based on and include a written statement showing the amount
39 of wages paid to the individual for insured work by each employer
40 during the individual's base period and shall include a finding as to
41 whether such wages meet the requirements for the individual to be an
42 insured worker, and, if so, the week ending date of the first week of the

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individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. Such notice shall contain the date, the name and social security account number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit period. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(c) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits, **if applicable**, or benefits, shall notify the department of such facts within ~~twenty (20)~~ **ten (10)** days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the board.

(d) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit, **if applicable**, or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in IC 22-4-17-3.

(e) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of

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the claimant for waiting period credit, **if applicable**, or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof. Except as otherwise hereinafter provided in this subsection regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ~~twenty~~ **ten (10)** days after such notification was mailed to the claimant's or the employer's last known address, or otherwise delivered to the claimant or the employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. With respect to notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless such claimant or employer, within ~~twenty-five (25)~~ **fifteen (15)** days after such notification was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith. If such hearing is desired, the request therefor shall be filed with the commissioner in writing within the prescribed periods as above set forth in this subsection and shall be in such form as the board may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(f) ~~No~~ **A** person may **not** participate on behalf of the department in any case in which the person is an interested party.

(g) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (c).

(h) Notice to the employer and the claimant that the determination

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1 of the department is final if a hearing is not requested shall be
 2 prominently displayed on the notice of the determination which is sent
 3 to the employer and the claimant.

4 SECTION 53. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002,
 5 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established
 7 to do the following:

8 (1) Administer the costs of the skills 2016 training program
 9 established by IC 22-4-10.5.

10 (2) Undertake any program or activity that furthers the purposes
 11 of IC 22-4-10.5.

12 (3) Refund skills 2016 training assessments erroneously collected
 13 and deposited in the fund.

14 (b) Subject to subsection (j), fifty-five percent (55%) of the money
 15 in the fund shall be allocated to the state educational institution
 16 established under IC 20-12-61. The money so allocated to that state
 17 educational institution shall be used as follows:

18 (1) An amount to be determined annually shall be allocated to the
 19 state educational institution established under IC 20-12-61 for its
 20 costs in administering the training programs described in
 21 subsection (b). However, the amount so allocated may not exceed
 22 fifteen percent (15%) of the total amount of money allocated
 23 under this subsection.

24 (2) After the allocation made under subdivision (1), forty percent
 25 (40%) shall be used to provide training to participants in joint
 26 labor and management building trades apprenticeship programs
 27 approved by the United States Department of Labor's Bureau of
 28 Apprenticeship Training.

29 (3) After the allocation made under subdivision (1), forty percent
 30 (40%) shall be used to provide training to participants in joint
 31 labor and management industrial apprenticeship programs
 32 approved by the United States Department of Labor's Bureau of
 33 Apprenticeship Training.

34 (4) After the allocation made under subdivision (1), twenty
 35 percent (20%) shall be used to provide training to industrial
 36 employees not covered by subdivision (2).

37 (c) Subject to subsection (j), the remainder of the money in the fund
 38 shall be allocated as follows:

39 (1) An amount not to exceed one million dollars (\$1,000,000)
 40 shall be allocated to the department of workforce development
 41 annually for technology needs of the department.

42 ~~(2) An amount not to exceed four hundred fifty thousand dollars~~

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1 (\$450,000) shall be allocated annually for training and counseling
 2 assistance under IC 22-4-14-2 provided by state educational
 3 institutions (as defined in IC 20-12-0.5-1) or counseling provided
 4 by the department of workforce development for individuals who:
 5 (A) have been unemployed for at least four (4) weeks;
 6 (B) are not otherwise eligible for training and counseling
 7 assistance under any other program; and
 8 (C) are not participating in programs that duplicate those
 9 programs described in IC 22-4-25-1(e).

10 Training or counseling provided under IC 22-4-14-2 does not
 11 excuse the claimant from complying with the requirements of
 12 IC 22-4-14-3. Eligibility for training and counseling assistance
 13 under this subdivision shall not be determined until after the
 14 fourth week of eligibility for unemployment training
 15 compensation benefits.

16 ~~(3)~~ (2) An amount to be determined annually shall be set aside for
 17 the payment of refunds from the fund.

18 ~~(4)~~ (3) The remainder of the money in the fund after the
 19 allocations provided for in subsection (b) and subdivisions (1)
 20 through ~~(3)~~ (2) shall be allocated to other incumbent worker
 21 training programs.

22 (d) The fund shall be administered by the board. However, all
 23 disbursements from the fund must be recommended by the incumbent
 24 workers training board and approved by the board as required by
 25 IC 22-4-18.3-6.

26 (e) The treasurer of state shall invest the money in the fund not
 27 currently needed to meet the obligations of the fund in the same
 28 manner as other public money may be invested. Interest that accrues
 29 from these investments shall be deposited in the fund.

30 (f) Money in the fund at the end of a state fiscal year does not revert
 31 to the state general fund.

32 (g) The fund consists of the following:

- 33 (1) Assessments deposited in the fund.
- 34 (2) Earnings acquired through the use of money belonging to the
 35 fund.
- 36 (3) Money received from the fund from any other source.
- 37 (4) Interest earned from money in the fund.
- 38 (5) Interest and penalties collected.

39 (h) All money deposited or paid into the fund is appropriated
 40 annually for disbursements authorized by this section.

41 (i) Any balance in the fund does not lapse but is available
 42 continuously to the department for expenditures consistent with this

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(j) If the fund ratio (as described in IC 22-4-11-3) is less than or equal to ~~1.5~~ **1.05** or if the board determines that the solvency of the unemployment insurance benefit fund established by IC 22-4-26-1 is threatened, the funds assessed for or deposited in the skills 2016 training fund shall be directed or transferred to the unemployment insurance benefit fund.

SECTION 54. IC 22-4-25-1, AS AMENDED BY P.L.290-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund **and amounts deposited as required by IC 22-4-10.5-7(b)**, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the

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auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the

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department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than five million dollars (\$5,000,000) during a program year for training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training. Of the money allocated for training programs under this subsection, fifty percent (50%) is designated for industrial programs, and the remaining fifty (50%) percent is designated for building trade programs.

(f) The commissioner shall allocate an amount not to exceed four hundred fifty thousand dollars (\$450,000) annually for training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department of workforce development for individuals who:

- (1) have been unemployed for at least four (4) weeks;**
- (2) are not otherwise eligible for training and counseling assistance under any other program; and**
- (3) are not participating in programs that duplicate those programs described in subsection (e).**

Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under this subdivision shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits. The training and counseling assistance programs funded by this subsection must be approved by the United States Department of Labor's Bureau of Apprenticeship Training.

SECTION 55. IC 22-4-26-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Money credited to the account of this state in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to 42 U.S.C. 1103, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this article and public

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1 employment offices pursuant to a specific appropriation by the general
 2 assembly, provided that the expenses are incurred and the money is
 3 requisitioned after the enactment of an appropriation statute which:

4 (1) specifies the purposes for which such money is appropriated
 5 and the amounts appropriated therefor;

6 (2) **except as provided in subsection (e)**, limits the period within
 7 which such money may be obligated to a period ending not more
 8 than two (2) years after the date of the enactment of the
 9 appropriation statute; and

10 (3) limits the total amount which may be obligated during a
 11 twelve (12) month period beginning on July 1 and ending on the
 12 next June 30 to an amount which does not exceed the amount by
 13 which:

14 (A) the aggregate of the amounts credited to the account of
 15 this state pursuant to 42 U.S.C. 1103, as amended, during such
 16 twelve (12) month period and the twenty-four (24) preceding
 17 twelve (12) month periods; exceeds

18 (B) the aggregate of the amounts obligated by this state
 19 pursuant to this section and amounts paid out for benefits and
 20 charged against the amounts credited to the account of this
 21 state during such twenty-five (25) twelve (12) month periods.

22 (b) For the purposes of this section, amounts obligated by this state
 23 during any such twelve (12) month period shall be charged against
 24 equivalent amounts which were first credited and which have not
 25 previously been so charged, except that no amount obligated for
 26 administration of this article and public employment offices during any
 27 such twelve (12) month period may be charged against any amount
 28 credited during such twelve (12) month period earlier than the
 29 fourteenth preceding such twelve (12) month period.

30 (c) Amounts credited to the account of this state pursuant to 42
 31 U.S.C. 1103, as amended, may not be obligated except for the payment
 32 of cash benefits to individuals with respect to their unemployment and
 33 for the payment of expenses incurred for the administration of this
 34 article and public employment offices pursuant to this section.

35 (d) Money appropriated as provided in this section for the payment
 36 of expenses incurred for the administration of this article and public
 37 employment offices pursuant to this section shall be requisitioned as
 38 needed for payment of obligations incurred under such appropriation
 39 and upon requisition shall be deposited in the employment and training
 40 services administration fund but, until expended, shall remain a part of
 41 the unemployment insurance benefit fund. The commissioner shall
 42 maintain a separate record of the deposit, obligation, expenditure, and

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1 return of funds so deposited. If any money so deposited is for any
 2 reason not to be expended for the purpose for which it was
 3 appropriated, or if it remains unexpended at the end of the period
 4 specified by the statute appropriating such money, it shall be
 5 withdrawn and returned to the Secretary of the Treasury of the United
 6 States for credit to this state's account in the unemployment trust fund.

7 **(e) This subsection applies only to amounts credited to the**
 8 **account of Indiana under 42 U.S.C. 1103, as amended, by section**
 9 **209 of the Temporary Extended Unemployment Compensation Act**
 10 **of 2002, which is Title II of the federal Job Creation and Worker**
 11 **Assistance Act of 2002, P.L.107-147. Amounts appropriated for the**
 12 **payment of expenses incurred in the administration of this article**
 13 **and public employment offices under this section are not required**
 14 **to be obligated within the two (2) year period described in**
 15 **subsection (a)(2).**

16 SECTION 56. IC 22-4-43 IS ADDED TO THE INDIANA CODE
 17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2003]:

19 **Chapter 43. Work Sharing**

20 **Sec. 1. The following definitions apply throughout this chapter:**

21 **(1) "Affected employee" means an individual who has been**
 22 **continuously on the payroll of an affected unit for at least**
 23 **three (3) months before the employing unit submits a work**
 24 **sharing plan.**

25 **(2) "Affected unit" means a specific plant, department, shift,**
 26 **or other definable unit of an employing unit:**

27 **(A) that has at least two (2) employees; and**

28 **(B) to which an approved work sharing plan applies.**

29 **(3) "Approved work sharing plan" means a plan that satisfies**
 30 **the purpose set forth in section 2 of this chapter and has the**
 31 **approval of the commissioner.**

32 **(4) "Commissioner" means the commissioner of workforce**
 33 **development appointed under IC 22-4.1-3-1.**

34 **(5) "Normal weekly work hours" means the lesser of:**

35 **(A) the number of hours that an employee in the affected**
 36 **unit works when the unit is operating on its normal**
 37 **full-time basis; or**

38 **(B) forty (40) hours.**

39 **(6) "Work sharing benefit" means a benefit payable to an**
 40 **affected employee for work performed under an approved**
 41 **work sharing plan, but does not include benefits that are**
 42 **otherwise payable under this article.**



(7) "Work sharing employer" means an employing unit for which a work sharing plan has been approved.

(8) "Work sharing plan" means a plan of an employing unit under which:

(A) normal weekly work hours of affected employees are reduced; and

(B) affected employees share the work that remains after the reduction.

Sec. 2. The work sharing unemployment insurance program seeks to:

(1) preserve the jobs of employees and the work force of an employer during lowered economic activity by reduction in work hours or workdays rather than by a layoff of some employees while other employees continue their normal weekly work hours or workdays; and

(2) ameliorate the adverse effect of reduction in business activity by providing benefits for the part of the normal weekly work hours or workdays in which an employee does not work.

Sec. 3. An employing unit that wishes to participate in the work sharing unemployment insurance program shall submit to the commissioner a written work sharing plan.

Sec. 4. (a) Within fifteen (15) days after receipt of a work sharing plan, the commissioner shall give written approval or disapproval of the plan to the employing unit.

(b) The decision of the commissioner to disapprove a work sharing plan is final and may not be appealed.

(c) An employing unit may submit a new work sharing plan not less than fifteen (15) days after disapproval of a work sharing plan.

Sec. 5. The commissioner shall approve a work sharing plan that meets the following requirements:

(1) The work sharing plan must apply to:

(A) at least ten percent (10%) of the employees in an affected unit; or

(B) at least twenty (20) employees in an affected unit.

(2) The normal weekly work hours of affected employees in the affected unit shall be reduced by at least ten percent (10%), but the reduction may not exceed fifty percent (50%) unless waived by the commissioner.

Sec. 6. A work sharing plan must:

(1) identify the affected unit;

(2) identify each employee in the affected unit by:

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- 1 (A) name;
- 2 (B) Social Security number; and
- 3 (C) any other information the commissioner requires;
- 4 (3) specify an expiration date that is not more than six (6)
- 5 months after the effective date of the work sharing plan;
- 6 (4) specify the effect that the work sharing plan will have on
- 7 the fringe benefits of each employee in the affected unit,
- 8 including:
- 9 (A) health insurance for hospital, medical, dental, and
- 10 similar services;
- 11 (B) retirement benefits under benefit pension plans as
- 12 defined in the federal Employee Retirement Income
- 13 Security Act (29 U.S.C. 1001 et seq.);
- 14 (C) holiday and vacation pay;
- 15 (D) sick leave; and
- 16 (E) similar advantages;
- 17 (5) certify that:
- 18 (A) each affected employee has been continuously on the
- 19 payroll of the employing unit for three (3) months
- 20 immediately before the date on which the employing unit
- 21 submits the work sharing plan; and
- 22 (B) the total reduction in normal weekly work hours is in
- 23 place of layoffs that would have:
- 24 (i) affected at least the number of employees specified in
- 25 section 5(1) of this chapter; and
- 26 (ii) resulted in an equivalent reduction in work hours;
- 27 and
- 28 (6) contain the written approval of the collective bargaining
- 29 agent for each collective bargaining agreement that covers
- 30 any affected employee in the affected unit.

31 **Sec. 7.** If a work sharing plan serves the work sharing employer
 32 as a transitional step to permanent staff reduction, the work
 33 sharing plan must contain a reemployment assistance plan for each
 34 affected employee that the work sharing employer develops with
 35 the commissioner.

36 **Sec. 8.** The work sharing employer shall agree to:

- 37 (1) submit reports that are necessary to administer the work
- 38 sharing plan; and
- 39 (2) allow the department to have access to all records
- 40 necessary to:
- 41 (A) verify the work sharing plan before its approval; and
- 42 (B) monitor and evaluate the application of the work

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sharing plan after its approval.

Sec. 9. (a) An approved work sharing plan may be modified if the modification meets the requirements for approval under section 6 of this chapter and the commissioner approves the modifications.

(b) An employing unit may add an employee to a work sharing plan when the employee has been continuously on the payroll for three (3) months.

(c) An approved modification of a work sharing plan may not change its expiration date.

Sec. 10. (a) An affected employee is eligible under this chapter to receive work sharing benefits for each week in which the commissioner determines that the affected employee is:

(1) able to work; and

(2) available for more hours of work or full-time work for the worksharing employer.

(b) An affected employee who otherwise is eligible may not be denied work sharing benefits for lack of effort to secure work as set forth in IC 22-4-14-3 or for failure to apply for available suitable work as set forth in IC 22-4-15-2 from a person other than the work sharing employer.

(c) An affected employee shall apply for benefits under IC 22-4-17-1.

(d) An affected employee who otherwise is eligible for benefits is:

(1) considered to be unemployed for the purpose of the work sharing unemployment insurance program; and

(2) not subject to the requirements of IC 22-4-14-2.

Sec. 11. The weekly work sharing unemployment compensation benefit due to an affected worker is determined in STEP FIVE of the following formula:

STEP ONE: Determine the weekly benefit that would be due to the affected employee under IC 22-4-12-4.

STEP TWO: Subtract the number of the employee's work hours under the approved work sharing plan from the number of the employee's normal work hours.

STEP THREE: Divide the STEP TWO result by the number of the employee's normal work hours.

STEP FOUR: Multiply the number determined in STEP ONE by the quotient determined in STEP THREE.

STEP FIVE: If the product determined under STEP FOUR is not a multiple of one dollar (\$1), round down to the nearest

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lower multiple of one dollar (\$1).

Sec. 12. (a) An affected employee is eligible to receive not more than twenty-six (26) weeks of work sharing benefits during each benefit year.

(b) The total amount of benefits payable under IC 22-4-12-4 and work sharing benefits payable under this chapter may not exceed the total payable for the benefit year under IC 22-4-12-4(a).

Sec. 13. During a week in which an affected employee who otherwise is eligible for benefits does not work for the work sharing employer:

(1) the individual shall be paid unemployment insurance benefits in accordance with IC 22-4-12; and

(2) the week does not count as a week for which a work sharing benefit is received.

Sec. 14. During a week in which an employee earns wages under an approved work sharing plan and other wages, the work sharing benefit shall be reduced by the same percentage that the combined wages are of wages for normal weekly work hours if the other wages:

(1) exceed the wages earned under the approved work sharing plan; and

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wages from the work sharing employer or another employer.

Sec. 15. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

(1) extended benefits under IC 22-4-12-4; or

(2) supplemental federal unemployment compensation.

Sec. 16. Work sharing benefits shall be charged to the work sharing employer's experience balance in the same manner as unemployment insurance is charged under this article. Employers liable for payments instead of contributions shall have work sharing benefits attributed to service in their employ in the same manner as unemployment insurance is attributed under this article.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

(1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;

(2) failure to comply with an assurance in the approved work

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1 sharing plan;

2 (3) unreasonable revision of a productivity standard of the
3 affected unit; and

4 (4) violation of a criterion on which the commissioner based
5 the approval of the work sharing plan.

6 **Sec. 18. This chapter expires January 1, 2006.**

7 SECTION 57. IC 22-4-44 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2003]:

10 **Chapter 44. Expanded Unemployment Insurance Benefits While**
11 **in State Training**

12 **Sec. 1. It is the intent of the general assembly that:**

13 (1) a training benefits program be established to provide
14 unemployment insurance benefits to unemployed individuals
15 who participate in training programs necessary for their
16 reemployment;

17 (2) funding for the program be limited by a specified
18 maximum amount each fiscal year;

19 (3) individuals unemployed as a result of structural changes
20 in the economy and technological advances rendering their
21 skills obsolete must receive the highest priority for
22 participation in the program;

23 (4) individuals for whom suitable employment is available are
24 not eligible for additional benefits while participating in
25 training; and

26 (5) the program shall serve the following goals:

27 (A) Retraining should be available for those unemployed
28 individuals whose skills are no longer in demand.

29 (B) To be eligible for retraining, an individual must have
30 a long term attachment to the labor force.

31 (C) Training must enhance the individual's marketable
32 skills and earning power.

33 (D) Retraining must be targeted to those industries or
34 skills that are in high demand within the labor market.

35 **Sec. 2. The following definitions apply throughout this chapter:**

36 (1) "High demand" means demand for employment that
37 exceeds the supply of qualified workers for occupations or
38 skill sets in a labor market area.

39 (2) "State educational institution" has the meaning set forth
40 in IC 20-12-0.5-1 and includes an equivalent educational
41 institution in another state that also receives appropriations
42 from the general assembly of the other state.

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(3) "Sufficient tenure" means earning a plurality of wages in a particular occupation or using a particular skill set during the base period and at least two (2) of the four (4) twelve (12) month periods immediately preceding the base period.

(4) "Training benefits" means additional benefits paid under this chapter.

(5) "Training program" means:

(A) an education program determined to be necessary as a prerequisite to vocational training after counseling at the state educational institution in which the individual enrolls under the individual's approved training program; or

(B) a vocational training program at a state educational institution that:

(i) is targeted to training for a high demand occupation.

The assessment of high demand occupations authorized for training under this chapter must be substantially based on labor market and employment information developed by the department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2);

(ii) is likely to enhance the individual's marketable skills and earning power; and

(iii) meets the criteria for performance developed by the department of workforce development for the purpose of determining those training programs eligible for funding under 29 U.S.C. 2911 et seq.

The term does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or specific skills necessary for the occupation.

Sec. 3. Subject to availability of funds, training benefits are available for an individual who meets all the following conditions:

(1) The individual is eligible for or has exhausted entitlement to unemployment compensation benefits.

(2) The individual is a dislocated worker who:

(A) has been terminated or received a notice of termination from employment;

(B) is eligible for or has exhausted entitlement to unemployment compensation benefits; and

(C) is unlikely to return to employment in the individual's principal occupation or previous industry because of a

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diminishing demand for the individual's skills in that occupation or industry.

(3) Except as provided under subdivision (4), the individual has demonstrated, through a work history, sufficient tenure in an occupation or in work with a particular skill set. This screening will take place during the assessment process.

(4) The individual is, after assessment of demand for the individual's occupation or skills in the individual's labor market, determined to need job related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets identified in local labor market areas by the department of workforce development.

(5) The individual develops an individual training program that is submitted to the commissioner for approval within sixty (60) days after the individual is notified by the department of the requirements of this section.

(6) The individual enters the approved training program within ninety (90) days after the date of the notification, unless the department determines that the training is not available during the ninety (90) day period, in which case the individual enters training as soon as it is available.

(7) The individual is enrolled in training approved under this chapter on a full-time basis as determined by the state educational institution and is making satisfactory progress in the training as certified by the state educational institution.

Sec. 4. An individual is not eligible for training benefits under this chapter if the individual:

- (1) is a standby claimant who expects recall to the individual's regular employer;
- (2) has a definite recall date that is within six (6) months after the date the individual has been laid off; or
- (3) is unemployed due to regular seasonal employment as defined in IC 22-4-8-4(a).

Sec. 5. Benefits shall be paid as follows:

- (1) The total training benefit amount shall be fifty-two (52) times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid or considered paid with respect to the benefit year.
- (2) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit



year and shall be paid under the same terms and conditions as regular benefits. The training benefits shall be paid before any extended benefits but not before any similar federally funded program.

(3) Training benefits are not payable for weeks more than two (2) years beyond the end of the benefit year of the regular claim.

Sec. 6. The provisions of IC 22-4-2-34(i) relating to exhaustees and regular benefits do not apply to an individual otherwise eligible for training benefits under this chapter when the individual's benefit year ends before the training benefits are exhausted and the individual is eligible for a new benefit year. The individual will have the option of remaining on the original claim or filing a new claim.

Sec. 7. An individual who receives training benefits under this chapter or under any previous additional benefits program for training is not eligible for training benefits under this chapter for five (5) years from the last receipt of training benefits under this chapter or under any previous additional benefits program for training.

Sec. 8. All base period employers are interested parties to the approval of training and the granting of training benefits.

Sec. 9. The department of workforce development in cooperation with the commissioner of labor under IC 22-1-1-8(2) must identify occupations and skill sets that are declining and occupations and skill sets that are in high demand. The department of workforce development shall update this information annually or more frequently if needed.

Sec. 10. The department may pay training benefits under section 3 of this chapter but may not obligate expenditures beyond the appropriation made by the general assembly or beyond funds available to the department under IC 22-4-40-11. The department shall develop a procedure to ensure that expenditures do not exceed available funds and to prioritize access to funds when again available.

Sec. 11. The department shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 58. IC 22-5-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 6. Protection for Temporary Employees in the Construction Trades



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1 **Sec. 1. As used in this chapter, "benefits" means compensation**
 2 **provided in addition to wages, including any of the following:**

- 3 (1) **Accrual of seniority.**
- 4 (2) **Credit for length of service.**
- 5 (3) **Disability and health insurance.**
- 6 (4) **Holiday pay or time off.**
- 7 (5) **Pension entitlement accrual.**
- 8 (6) **Sick leave.**
- 9 (7) **Vacation leave or pay.**

10 **Sec. 2. As used in this chapter, "client company" means a**
 11 **business that leases the services of employees or receives services**
 12 **or functions through temporary employment agencies.**

13 **Sec. 3. As used in this chapter, "construction trades" means any**
 14 **trade or occupation involving construction, alteration, remodeling,**
 15 **repairing, wrecking or demolition, addition to, or improvement of**
 16 **any building, highway, road, railroad, dam, bridge, structure, or**
 17 **excavation.**

18 **Sec. 4. As used in this chapter, "department" refers to the**
 19 **department of labor.**

20 **Sec. 5. As used in this chapter, "liquidity fee" means a penalty**
 21 **charged by a temporary employment agency against:**

- 22 (1) **a temporary employee for accepting a position of**
 23 **employment with the client company; or**
- 24 (2) **a client company for hiring a temporary employee.**

25 **Sec. 6. As used in this chapter, "substantially equivalent work"**
 26 **means work on jobs:**

- 27 (1) **the performance of which requires equal skill, effort, and**
 28 **responsibility; and**
- 29 (2) **under similar working conditions.**

30 **Sec. 7. As used in this chapter, "temporary employee" means a**
 31 **temporary employment agency employee who, in the course of**
 32 **employment, performs personal services in the construction trades**
 33 **on a temporary basis to a third party client company under the**
 34 **direction and control of the third party client company. The term**
 35 **does not include a person who is an independent contractor in the**
 36 **construction trades under IC 22-3-6-1(b)(7).**

37 **Sec. 8. As used in this chapter, "temporary employment agency"**
 38 **means an employer that for a fee:**

- 39 (1) **recruits;**
- 40 (2) **procures;**
- 41 (3) **refers;**
- 42 (4) **places; or**

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(5) employs;
workers to perform personal services on a temporary basis to a
third party client company under the direction and control of the
third party client company.

Sec. 9. A temporary employment agency shall post in its labor
hall where temporary employees are required to appear for
assignment to work, or if there is no such labor hall, provide to
each temporary employee seeking employment, a list of all client
companies at which work is available through the temporary
employment agency. The list must include the following for each
job opportunity posted:

(1) The name and address of the client company and the exact
address of the worksite, directions to the worksite, and a
telephone number at which a temporary employee could be
reached in an emergency situation.

(2) The type of job opportunity for temporary employees.

(3) A detailed description of the work to be performed by the
temporary employee, including any requirements for special
attire, accessories, tools, or safety equipment.

(4) The method of computing compensation and the amount
of compensation and benefits to be paid for the work, and the
overtime rate of compensation if it might be available.

(5) Any cost of the transportation to the temporary employee.

(6) The duration of the work to be performed by the
temporary employee, including:

(A) the time of day the work will begin;

(B) the time of day the work will end;

(C) the schedule of days on which the work will be
performed;

(D) when the work is expected to end; and

(E) whether there is any possibility of overtime work or
extension of the work past the anticipated end date.

(7) Any safety or hazardous material information that is
available to the temporary employment agency shall be made
available to the temporary employee. The information must
include, but is not limited to, a complete and accurate
description of worksite hazards to which the temporary
employee may become exposed, including any hazardous
materials that the temporary employee may be required to
use or handle and any physical conditions or work practices
that do not comply with applicable occupational health and
safety standards.

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(8) Whether a meal is provided, either by the temporary employment agency or the client company, and any cost of the meal to the temporary employee.

Sec. 10. A temporary employment agency shall:

(1) compensate temporary employees for work performed in the manner of payment set forth in IC 22-2-5-1;

(2) offer pay and benefits equal to those provided to the permanent employees of the client company to temporary employees who have been employed at the premises of the client company for a total of at least ninety (90) days, whether or not continuously, and who perform substantially equivalent work compared to employees of the client company where the temporary employees work;

(3) subject to subdivision (2), compensate temporary employees at a rate at or above the federal minimum wage, which shall not be reduced to less than the federal minimum wage by deductions other than those permitted by federal or state law;

(4) include a written notification with each payment of wages to the temporary employee, which shall be included on the temporary employee's statement of earnings and deductions, specifying:

(A) the hourly rate paid for the temporary employee;

(B) the itemized deductions made from the wage payment made to the temporary employee by the temporary employment agency; and

(C) an itemized list of benefits provided to the temporary employee by the temporary employment agency; and

(5) provide each temporary employee with an annual earnings summary not later than February 1 for the preceding calendar year.

Sec. 11. A temporary employment agency shall not charge a temporary employee:

(1) for safety equipment, clothing, tools, accessories, or any other items required by the nature of the work, either by law, custom, or a requirement of the client company. This subdivision does not preclude the temporary employment agency from charging the temporary employee the market value of items temporarily provided to the temporary employee by the temporary employment agency if the temporary employee willfully fails to return the items to the temporary employment agency; however, a charge may not

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1 be made for items damaged through ordinary use or lost
2 through no fault of the temporary employee;

3 (2) for merchandise or supplies other than those referenced in
4 subdivision (1), that the temporary employment agency makes
5 available for purchase at a higher price than merchandise or
6 supplies sold to others, as provided in IC 22-2-4-3;

7 (3) to transport the temporary employee to or from a
8 worksite;

9 (4) for directly or indirectly cashing a temporary employee's
10 paycheck; or

11 (5) if a meal is provided at the worksite by the temporary
12 employment agency, more than the actual cost of providing
13 the meal, but the purchase of a meal may not be a condition
14 of employment.

15 **Sec. 12. (a)** A temporary employment agency that operates a
16 labor hall where temporary workers are required to appear for:

17 (1) assignment to work; or

18 (2) payment of compensation;

19 shall provide facilities for temporary employees waiting at the
20 labor hall for a job assignment that includes restroom facilities,
21 drinking water, and sufficient seating.

22 (b) A temporary employment agency shall insure at the
23 minimum rate required by the law of the state in which the motor
24 vehicle is registered any motor vehicle owned or operated by the
25 temporary employment agency and used for the transportation of
26 temporary employees.

27 (c) All advertisements of a temporary employment agency must
28 contain the correct name of the temporary employment agency and
29 one (1) of the following:

30 (1) The street address of the place of business of the
31 temporary employment agency.

32 (2) The correct telephone number of the temporary
33 employment agency at its place of business.

34 **Sec. 13. (a)** A temporary employment agency shall not restrict
35 the right of:

36 (1) a temporary employee to accept a permanent position with
37 a client company to whom the temporary employee is referred
38 for temporary employment; or

39 (2) the client company to offer employment to a temporary
40 employee of the temporary employment agency.

41 However, this chapter does not restrict the temporary employment
42 agency from receiving a reasonable liquidity fee from the client

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company.

(b) A temporary employment agency shall not make or give, or cause to be made or given any false, leading, or deceptive advertisements, information, or representation concerning the services, compensation, benefits, or work opportunities that the client company will provide to the temporary employees.

Sec. 14. The worker's compensation insurance premiums of a temporary employment agency shall be determined and paid based on the experience rating of the client company for which the temporary employee performs services if the client company has sufficient worker's compensation premium volume to be experience rated. Otherwise, the premiums shall be the rate approved for an employer that cannot be experience rated.

Sec. 15. A temporary employment agency or client company shall not:

- (1) discharge;
- (2) discipline; or
- (3) penalize in any other manner;

a temporary employee because the temporary employee, or a person acting on behalf of the temporary employee, reports a violation or alleged violation of section 9, 10, 11, 12, or 13 of this chapter to the temporary employment agency or to a local or state official, or because the temporary employee, or a person acting on behalf of the temporary employee, exercises any right under this chapter.

Sec. 16. A temporary employment agency that violates section 9, 11, 12, 13, or 15 of this chapter commits a Class A misdemeanor.

Sec. 17. (a) A temporary employee may bring a civil action against a temporary employment agency to enforce section 10 of this chapter and seek compensation for charges made in violation of section 11 of this chapter within two (2) years after the alleged violation.

(b) If a temporary employment agency violates section 10 of this chapter, the court may do the following:

- (1) Award:
 - (A) treble damages for loss of wages and other benefits; and
 - (B) court costs and reasonable attorney's fees; to the prevailing temporary help employee.
- (2) Enjoin further violations of this chapter by the temporary employment agency.

Sec. 18. (a) The department and its authorized inspectors and



agents shall enforce this chapter. The department and its inspectors and agents may visit and inspect, at all reasonable hours and as often as practicable and necessary, all establishments governed by this chapter.

(b) When requested in writing by the department, the attorney general shall assist the department in enforcing this chapter against all violations.

(c) In addition to the civil action that may be brought by the temporary employee under section 17(a) of this chapter, a temporary employment agency that violates this chapter may be assessed a civil penalty by the department of not less than two thousand five hundred dollars (\$2,500) and not more than five thousand dollars (\$5,000) for each offense. The department shall collect the civil penalties and shall disburse the civil penalties as reimbursement of wages to the temporary employees who have been found by the department to have been damaged by the temporary employment agency's failure to comply with this chapter, with any remaining balance deposited in the state general fund.

(d) A civil penalty assessed under subsection (c):

(1) is subject to IC 4-21.5-3-6; and

(2) becomes effective without a proceeding under IC 4-21.5-3 unless a person requests an administrative review not later than thirty (30) days after notice of the assessment is given.

SECTION 59. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 5-16-7-6, as added by this act, the department of labor shall carry out the duties imposed upon it under IC 5-16-7, as amended by this act, under interim written guidelines approved by the commissioner of the department of labor.

(b) This SECTION expires on the earlier of:

(1) the date rules are adopted under IC 5-16-7-6, as added by this act; or

(2) December 31, 2003.

SECTION 60. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-4-43-13, as added by this act, the unemployment insurance board shall carry out the duties imposed upon it under IC 22-4-43-13, as added by this act, under interim written guidelines recommended by the commissioner of workforce development and approved by the unemployment insurance board.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-4-43-13, as added by this act.



1 **(2) December 31, 2004.**

2 SECTION 61. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding
3 IC 22-4-44-11, as added by this act, the department of workforce
4 development shall carry out the duties imposed upon it under
5 IC 22-4-44-11, as added by this act, under interim written
6 guidelines recommended by the commissioner of workforce
7 development and approved by the incumbent workers training
8 board and the unemployment insurance board.

9 (b) This SECTION expires on the earlier of the following:

10 (1) The date rules are adopted under IC 22-4-44-11, as added
11 by this act.

12 **(2) December 31, 2004.**

13 SECTION 62. [EFFECTIVE JULY 1, 2003] (a) The department
14 of workforce development shall adopt rules under IC 22-4-2-12, as
15 amended by this act, before January 1, 2005.

16 (b) This SECTION expires January 2, 2005.

17 SECTION 63. [EFFECTIVE JULY 1, 2003] (a) There is
18 appropriated out of the funds made available to Indiana under
19 Section 903 of the Social Security Act, as amended by Section 209
20 of the Temporary Extended Unemployment compensation Act or
21 2002, which is Title II of the federal Jobs Creation and Worker
22 Assistance Act of 2002, P.L.107-147, one hundred sixty million
23 dollars (\$160,000,000) to the department of workforce development
24 beginning July 1, 2003, and ending June 30, 2012.

25 (b) Money allocated under this SECTION is subject to the
26 requirements of IC 22-4-37-1.

27 (c) Money allocated under this SECTION may be used for the
28 following purposes:

29 (1) The administration of the Unemployment Insurance (UI)
30 program and the Wagner Peyser public employment office
31 program.

32 (2) Acquiring land and erecting buildings for the use of the
33 department of workforce development.

34 (3) Improvements, facilities, paving, landscaping, and fixing
35 equipment as may be required by the department of
36 workforce development.

37 (d) In accordance with the requirements of subsections (a)
38 through (c), the department of workforce development may
39 allocate up to the following amounts from the amount described in
40 subsection (a) for the following purposes:

41 (1) Fifty million dollars (\$50,000,000) to be used for the
42 modernization of the Unemployment Insurance (UI) system.

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1 **(2) Fifty million dollars (\$50,000,000) for the JOBS proposal**
2 **to meet the workforce needs of Hoosier employers in high**
3 **wage, high skill, high demand occupations.**

4 **(3) Sixty million dollars (\$60,000,000) to provide Hoosier**
5 **workers with thirteen (13) additional weeks of state funded UI**
6 **benefits in order to combat the adverse nature of long term**
7 **unemployment, restructure the base period requirements to**
8 **allow earlier qualification for UI benefits, and increase the**
9 **percentage of wage credits used to calculate UI benefits.**

10 **(e) This SECTION expires July 1, 2012.**

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